

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2010*

**MICHAEL PORTER,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D09-1694

[February 17, 2010]

PER CURIAM.

We affirm the circuit court's denial of the appellant's motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. We find that the appellant's first, second, fifth and sixth grounds for relief are untimely. *See Bolender v. State*, 658 So. 2d 82, 85 (Fla. 1995) (requiring that a rule 3.850 motion filed on the basis of newly discovered evidence be filed "within two years of the time when evidence upon which avoidance of the time limit was based could have been discovered through the exercise of due diligence"). We find that the appellant's other grounds for relief were, or could have been, raised on direct appeal and, therefore, are unauthorized. *See Fla. R. Crim. P. 3.850(c)* ("This rule does not authorize relief based on grounds that could have or should have been raised at trial and, if properly preserved, on direct appeal of the judgment and sentence.").

*Affirmed.*

FARMER, STEVENSON and GERBER, JJ., concur.

\* \* \*

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Krista Marx and Charles E. Burton, Judges; L.T. Case No. 2000CF003840AXX.

Michael R. Porter, Belle Glade, pro se.

No appearance required for appellee.

***Not final until disposition of timely filed motion for rehearing.***