

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

**TOURRIE HOWARD,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D09-2494

[May 26, 2010]

PER CURIAM.

Tourrie Howard challenges the trial court's denial of his motion filed pursuant to Florida Rule of Criminal Procedure 3.850. We reverse in part. The record furnished to this court, which includes the transcript of the initial plea hearing, does not refute Howard's allegation that he was not advised that he could be sentenced to a habitual offender prison term following a violation of probation and that he could receive the maximum sentence. *See Cousino v. State*, 762 So. 2d 1063 (Fla. 4th DCA 2000); *Thomas v. State*, 745 So. 2d 468 (Fla. 4th DCA 1999). We remand either for an evidentiary hearing or for the attachment of records which conclusively show that he is entitled to no relief on this point.

*Affirmed in part, reversed in part and remanded.*

GROSS, C.J., LEVINE and GERBER, JJ., concur.

\* \* \*

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Jeffrey R. Levenson, Judge; L.T. Case No. 05-20277CF10A.

Tourrie Howard, Bowling Green, pro se.

Bill McCollum, Attorney General, Tallahassee, and Heidi L. Bettendorf, Assistant Attorney General, West Palm Beach, for appellee.

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