

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2011*

**JIMMY J. SCOTT,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D10-2990

[November 30, 2011]

PER CURIAM.

Appellant, Jimmy J. Scott, appeals the trial court's denial of his motion for postconviction DNA testing pursuant to Florida Rule of Criminal Procedure 3.853. Appellant alleges that DNA testing could establish that he was not present at the scene of the crime. However, this assertion directly contradicts Appellant's own testimony at trial in which he acknowledged that he was present at the scene and that he fired his gun in self defense. Identification was not a genuinely disputed issue in this case. Fla. R. Crim. P. 3.853(b)(4). Accordingly, we find no merit to Appellant's allegation and affirm.

Appellant is cautioned that any further abusive, repetitive, malicious, and/or frivolous filing will result in sanctions, such as a ban on him filing any *pro se* papers in this court or referral to prison officials for disciplinary procedures. *See State v. Spencer*, 751 So. 2d 47 (Fla. 1999); § 944.279(1), Fla. Stat. (2009); § 944.28(2)(a), Fla. Stat. (2009).

*Affirmed.*

POLEN, DAMOORGIAN and CIKLIN, JJ., concur.

\* \* \*

Appeal of order denying rule 3.853 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Jeffrey Levenson, Judge; L.T. Case No. 86-12809 CF10A.

Jimmy J. Scott, Milton, pro se.

No appearance required for appellee.

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