

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2012

SHERRELL STEPHENS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D10-4020

[September 12, 2012]

PER CURIAM.

Affirmed. Appellant's challenge to her sentence as being in excess of the plea agreement was not properly preserved. *See Hall v. State*, 765 So. 2d 282, 284 (Fla. 4th DCA 2000) ("[I]f the court imposes a sentence in excess of the plea bargain, his claim will be cognizable on appeal only if he filed a motion to withdraw his plea to preserve his claim."); *Gafford v. State*, 783 So. 2d 1191, 1192 (Fla. 1st DCA 2001) (sentence which exceeds plea agreement is not considered an illegal sentence but must be challenged by a motion to withdraw plea agreement). We affirm without prejudice for appellant to file a motion for postconviction relief pursuant to Florida Rule of Criminal Procedure 3.850. *Hall*, 765 So. 2d at 284.

WARNER, HAZOURI and CIKLIN, JJ., concur.

* * *

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, Martin County; Sherwood Bauer, Jr., Judge; L.T. Case No. 432010CF000360A.

Carey Haughwout, Public Defender, and Narine N. Austin, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Melanie Dale Surber, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.