

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

VICTORIO HUIPIO,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D11-1157

[June 27, 2012]

PER CURIAM.

Victorio Huipio appeals the trial court's summary denial of his motion for postconviction relief. He raised two grounds for relief in his motion: (1) the trial court could not impose an upward departure sentence on different grounds after his habitual offender sentence was stricken pursuant to *Lamont v. State*, 610 So. 2d 435 (Fla. 1992), and (2) it was error for a substitute judge to conduct resentencing. The first ground lacks merit. See *Cook v. State*, 866 So. 2d 1291 (Fla. 4th DCA 2004). Regarding the second ground, the record reflects the substitute judge complied with Florida Rule of Criminal Procedure 3.700(c)(1).

Affirmed.

HAZOURI, CIKLIN and CONNER, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Martin J. Bidwill, Judge; L.T. Case No. 97-19655 CF10A.

Victorio Huipio, Clermont, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.