

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

DAVID LUBIN,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D12-1069

[May 23, 2012]

PER CURIAM.

Appellant challenges the dismissal of his rule 3.850 motion for postconviction relief as premature. The trial judge concluded that she lacked jurisdiction to entertain the postconviction motion, in light of appellant's pending appeal of the denial of a prior rule 3.850 motion. In light of our recent en banc opinion in *Jackman v. State*, Case No. 4D09-3726 (Fla. 4th DCA May 2, 2012), we reverse. *See id.* ("We adopt the rationale of *Bryant [v. State]*, 37 Fla. L. Weekly D102 (Fla. 2d DCA Jan. 6, 2012)] and . . . hold that a trial court has authority to consider or to defer ruling and stay a subsequently filed postconviction motion that raises unrelated issues, notwithstanding the pendency of an appeal of an order on a previously filed postconviction motion.").

Reversed and remanded.

WARNER, DAMOORGIAN and CONNER, JJ., concur.

* * *

Appeal of order dismissing rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Karen Miller, Judge; L.T. Case No. 2009CF005645AXX.

David Lubin, Raiford, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.