

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ROGER FOLEY,)	
)	
Appellant,)	
)	
v.)	Case No. 2D01-3851
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed October 18, 2002.

Appeal from the Circuit Court for Pinellas
County; Brandt C. Downey, III, Judge.

James Marion Moorman, Public Defender,
and Megan Olson, Assistant Public
Defender, Bartow, for Appellant.

Robert A. Butterworth, Attorney General,
Tallahassee, and Sonya Roebuck Horbelt,
Assistant Attorney General, Tampa, for
Appellee.

SALCINES, Judge.

Roger Foeley appeals the trial court order which summarily denied his
motion to withdraw plea. The denial is affirmed without prejudice for Foeley to file a

facially sufficient motion pursuant to Florida Rule of Criminal Procedure 3.850. If Foeley files such a timely motion, it shall not be deemed to be successive.

Affirmed.

ALTENBERND and STRINGER, JJ., Concur.