

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

VLADIMIR CHERENFANT,)

Appellant,)

v.)

STATE OF FLORIDA,)

Appellee.)

Case No. 2D07-4887

Opinion filed September 12, 2008.

Appeal from the Circuit Court for Manatee
County; Janette C. Dunnigan, Judge.

James Marion Moorman, Public Defender,
and Jack W. Shaw, Jr., Special Assistant
Public Defender, Bartow, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Donna S. Koch, Assistant
Attorney General, Tampa, for Appellee.

LaROSE, Judge.

Vladimir Cherenfant appeals the denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. He also challenges the postconviction court's failure to consider the merits of his amended motion. We affirm the denial of relief as to the original motion; we reverse and remand for the

postconviction court to consider the additional issues raised in Mr. Cherenfant's amended motion.

In 2005, Mr. Cherenfant was convicted of lewd and lascivious battery. He is serving an eight-year sentence. No direct appeal was filed. In February 2006, Mr. Cherenfant filed his motion for postconviction relief. In February 2007, he filed an amended motion on the same day that the postconviction court summarily denied three claims in Mr. Cherenfant's original motion and ordered an evidentiary hearing on the fourth. In its final order denying the original motion after the evidentiary hearing, the postconviction court did not mention the amended motion. We see nothing in the record suggesting that the postconviction court ruled on the amended claims.

We find no error in the postconviction court's denial of Mr. Cherenfant's original claims. However, because the amended motion was timely filed and pending when the postconviction court ruled on the original motion, we reverse and remand for consideration of the additional issues raised by Mr. Cherenfant. See McAbee v. State, 873 So. 2d 545, 545 (Fla. 2d DCA 2004); Ramirez v. State, 854 So. 2d 805, 806-07 (Fla. 2d DCA 2003).

Reversed and remanded.

CASANUEVA and WALLACE, JJ., Concur.