

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ASHLEY M. TOYE,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
)
 _____)

Case No. 2D08-3710

Opinion filed August 26, 2009.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Lee County; Thomas S. Reese, Judge.

Ashley M. Toye, pro se.

PER CURIAM.

We affirm the order dismissing as untimely Ashley M. Toye's motion for new trial without prejudice to any right she may have to file a timely and sworn motion for postconviction relief pursuant to Florida Rule of Criminal Procedure 3.850.

FULMER, NORTHCUTT, and SILBERMAN, JJ., Concur.