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

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

SECOND DISTRICT

CHRISTOPHER MUNROE,	)	
	)	
Appellant,	)	
	)	
v.	)	Case No. 2D10-2728
	)	
STATE OF FLORIDA,	)	
	)	
Appellee.	)	
_____	)	

Opinion filed September 16, 2011.

Appeal from the Circuit Court for Pasco County; Pat Siracusa, Judge.

James Marion Moorman, Public Defender, and J.C. Hill, Special Assistant Public Defender, Bartow, for Appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Dawn A. Tiffin, Assistant Attorney General, Tampa, for Appellee.

MORRIS, Judge.

Christopher Munroe appeals the nonsummary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850 after this court reversed the initial summary denial and remanded for an evidentiary hearing. See

Munroe v. State, 28 So. 3d 973 (Fla. 2d DCA 2010). We affirm the postconviction court's nonsummary denial.

In his motion, Munroe argued that his trial counsel was ineffective in failing to advise him that he had a viable defense to the charge of failing to register as a sexual offender because he was not designated a sexual offender by the court that entered his conviction for the qualifying offense of false imprisonment and because there was no sexual component to his false imprisonment offense. See id. at 975. We affirm the postconviction court's conclusion that trial counsel was not ineffective in his advice to Munroe. Munroe was required to register as a sexual offender by virtue of his conviction for the qualifying offense of false imprisonment where the victim was a minor and not his child. See § 943.0435(1)(a)(1), Fla. Stat. (2002); Raines v. State, 805 So. 2d 999, 1002 (Fla. 4th DCA 2001) ("Because appellant was convicted of false imprisonment, one of the enumerated offenses in the definition of 'sexual offender,' he was required to register." (footnote omitted)). And the evidence at the evidentiary hearing indicates that trial counsel reasonably determined that there was in fact a sexual component to Munroe's qualifying offense of false imprisonment. Cf. State v. Robinson, 873 So. 2d 1205, 1207 (Fla. 2004) (holding that sexual predator act was "unconstitutional as applied to a defendant whose crime indisputably did *not* contain a sexual element"); Raines, 805 So. 2d at 1003 (holding that sexual offender designation was unconstitutionally applied to the defendant where "it [wa]s clear that the predicate crime [of false imprisonment] [wa]s totally devoid of a sexual component"). Accordingly, trial counsel properly advised Munroe that he had no viable defense to the charge of failing to register as a sexual offender.

We take this opportunity to clarify a statement made in our previous opinion in Munroe, 28 So. 3d 973. In Munroe, this court suggested that Robinson held that in order for the defendant to be designated a sexual predator based on his or her qualifying conviction for an offense that does not necessarily include a sexual element, such as false imprisonment, the State must prove that there was a sexual component to the offense. Munroe, 28 So. 3d at 975-96 (citing Raines, 805 So. 2d at 1003, for the same suggestion). But Robinson's holding is much more narrow and does not impose such a blanket requirement on the State; the court in Robinson simply held that the sexual predator designation is unconstitutionally applied to a defendant who is convicted of a qualifying offense that does not contain a sexual element, such as false imprisonment or kidnapping, where it is undisputed by the State that the facts of the particular qualifying offense do not contain a sexual component. 873 So. 2d at 1217; see also Raines, 805 So. 2d at 1003. Robinson allows a defendant to challenge a designation on the narrow basis discussed in that case. In this case, Munroe was unable to demonstrate that he is entitled to relief under Robinson.

Affirmed.

SILBERMAN, C.J., and CASANUEVA, J., Concur.