

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

FRED ALLEN BRINKLEY,	)	
	)	
Appellant,	)	
	)	
v.	)	Case No. 2D04-400
	)	
STATE OF FLORIDA,	)	
	)	
Appellee.	)	
_____	)	

Opinion filed July 7, 2004.

Appeal pursuant to Fla. R. App. P.  
9.141(b)(2) from the Circuit Court for  
Polk County; James A. Yancey, Acting  
Circuit Judge.

VILLANTI, Judge.

Fred Allen Brinkley appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. We affirm the trial court's denial because the record conclusively refutes Brinkley's claim. However, we affirm without prejudice to any right Brinkley may have to challenge the forfeiture of gain time through the appropriate administrative remedies with the

Department of Corrections and then by way of petition for writ of mandamus in the appropriate circuit court. See Clements v. State, 761 So. 2d 1245 (Fla. 2d DCA 2000).

Affirmed.

ALTENBERND, C.J., and STRINGER, J., Concur.