

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

GLEN JEFFERY BENNETT,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D04-4252

Opinion filed June 29, 2005.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Hillsborough County; Chet A. Tharpe,
Judge.

FULMER, Judge.

Glenn Jeffery Bennett appeals the summary denials of his motion to clarify and rehear defendant's previously denied motion for jail time credit, his motion for postconviction relief, filed pursuant to Florida Rule of Criminal Procedure 3.850, and his motion to supplement. Bennett also appeals the denial of his motion for rehearing and his second motion to supplement his rule 3.850 motion for postconviction relief. We

affirm without comment the trial court's orders as to all but the summary denial of Bennett's second motion to supplement his rule 3.850 motion.

Bennett admitted to violating his probation and was sentenced on March 13, 2003. He then filed a timely rule 3.850 motion for postconviction relief. On June 24, 2004, the clerk of the circuit court received Bennett's second motion to supplement his rule 3.850 motion. The order denying Bennett's original rule 3.850 motion was rendered on July 1, 2004. On August 25, 2005, the trial court issued an order denying the claims raised in Bennett's second motion to supplement as successive to his originally filed rule 3.850 motion.

It was error for the trial court not to consider Bennett's additional claims because he filed his second motion to supplement prior to the end of the two-year time limit for filing a rule 3.850 motion and prior to the trial court's order on his original rule 3.850 motion. See Pritchett v. State, 884 So. 2d 417 (Fla. 2d DCA 2004). Accordingly, we reverse the order of the trial court denying Bennett's second motion to supplement and remand for the trial court to determine if the motion is otherwise facially sufficient and, if so, consider the claims raised on their merits.

Affirmed in part, reversed in part, remanded.

CASANUEVA and DAVIS, JJ., Concur.