

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

ORSON W. BENN,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
_____)

Case No. 2D11-984

Opinion filed December 28, 2011.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for Polk
County; John K. Stargel, Judge.

Henry E. Marines of Law Offices of Henry E.
Marines, P.A., Miami, for Appellant.

MORRIS, Judge.

Orson W. Benn appeals the summary dismissal of his motion for
postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The
postconviction court mistakenly found that the State did not amend the information to
remove the construction fraud counts after the defense moved for a judgment of

acquittal. Despite this error, Benn's motion is ultimately without merit. Therefore, we affirm the order of dismissal.

Affirmed.

VILLANTI and KHOUZAM, JJ., Concur.