

# **Third District Court of Appeal**

## **State of Florida**

Opinion filed October 22, 2014.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D14-378  
Lower Tribunal No. 98-28312

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**Derrick G. James,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Cristina M. Miranda, Judge.

Ana M. Davide, for appellant.

Pamela Jo Bondi, Attorney General, for appellee.

Before WELLS, EMAS and SCALES, JJ.

PER CURIAM.

Affirmed. See Fla. R. Crim. P. 3.850(h) (providing that “a court may dismiss a second or successive motion if the court finds that it fails to allege new or different grounds for relief and the prior determination was on the merits. . . .”); McCrae v. State, 437 So. 2d 1388, 1390 (Fla. 1983)(holding that a rule 3.850 motion based upon grounds which either were or could have been raised on appeal may be summarily denied, and further holding that a rule 3.850 motion is “successive” when it raises substantially the same grounds as a previous motion and that previous motion was decided on the merits). See also, Ziegler v. State, 632 So. 2d 48 (Fla. 1993); Foster v. State, 614 So. 2d 455 (Fla. 1992).