

Third District Court of Appeal

State of Florida

Opinion filed November 26, 2014.
Not final until disposition of timely filed motion for rehearing.

No. 3D14-2284
Lower Tribunal No. 07-36556-B

Jermaine Johnson,
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, Jorge Rodriguez-Chomat, Judge.

Jermaine Johnson, in proper person.

Pamela Jo Bondi, Attorney General, for appellee.

Before WELLS, ROTHENBERG and EMAS, JJ.

PER CURIAM.

Jermaine Johnson appeals from the trial court's order summarily denying his motion for postconviction relief, which Johnson alleges is based upon newly-discovered evidence. As the State properly concedes on appeal, the trial court should not have denied the motion on its merits; rather, given the facial insufficiency of the motion, the trial court should have entered a nonfinal, nonappealable order dismissing the motion and allowing Johnson sixty days within which to file an amended motion. See Fla. R. Crim. P. 3.850(f)(2); White v. State, 116 So. 3d 597 (Fla. 3d DCA 2013).

We therefore reverse the order denying the motion, remand the cause for the court to enter an order which dismisses the motion as insufficient and which allows Johnson sixty days in which to file an amended motion.