

Third District Court of Appeal

State of Florida

Opinion filed July 26, 2017.

Not final until disposition of timely filed motion for rehearing.

No. 3D16-1164

Lower Tribunal No. 08-24995

Arturo Ortiz Soto,
Appellant,

vs.

The State of Florida,
Appellee.

An appeal from the Circuit Court for Miami-Dade County, Alberto Milian, Judge.

Arturo Ortiz Soto, in proper person.

Pamela Jo Bondi, Attorney General, and Arlisa Certain, Assistant Attorney General, for appellee.

Before SUAREZ, FERNANDEZ, and SCALES, JJ.

SUAREZ, J.

Arturo Ortiz Soto appeals from the trial court's denial of his petition for postconviction relief pursuant to Florida Rule of Criminal Procedure 3.800, as well as denial of his petition for habeas relief. We affirm as to both.

Soto accepted the State's plea offer to resolve four cases which were pending against him, one of which was this case, F08-24995. In accepting a negotiated plea, Soto effectively waived the non-jurisdictional issues he raised in prior post-conviction motions and which he raises again here. See Haselden v. State, 386 So. 2d 624, 624 (Fla. 4th DCA 1980) (holding the failure to timely raise a defect in an information constitutes a waiver of the defect unless the information wholly fails to charge a crime); Tracey v. State, 130 So. 2d 605 (Fla. 1961) (holding failure to allege an essential element of an offense does not alone render the charge void as wholly failing to state a crime, and failure to timely object to this defect constitutes waiver). See also Novaton v. State, 634 So. 2d 607 (Fla. 1994) (holding a defendant waives any double jeopardy claim that affects his conviction or sentence by entering into a negotiated plea agreement wherein the defendant agrees to each crime and sentence); Zaetler v. State, 616 So. 2d 461 (Fla. 3d DCA), rev. denied, 626 So. 2d 210 (Fla. 1993) (voluntary guilty plea plus agreement on sentence waived any double jeopardy objection as to convictions and sentences). As such, we affirm.

Affirmed.