

# **Third District Court of Appeal**

## **State of Florida**

Opinion filed December 18, 2019.  
Not final until disposition of timely filed motion for rehearing.

---

No. 3D19-2185  
Lower Tribunal No. 08-40953

---

**Giosbel Hechevarria-Figuero,**  
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, Stacy D. Glick, Judge.

Giosbel Hechevarria-Figuero, in proper person.

Ashley Moody, Attorney General, for appellee.

Before EMAS, C.J., and SCALES and LOBREE, JJ.

PER CURIAM.

Giosbel Hechevarria-Figuero appeals from an order summarily denying his motion for postconviction relief, which was filed pursuant to Florida Rule of Criminal Procedure 3.850 and was premised upon a claim of newly-discovered evidence.

We affirm and note that even if Figuero's allegations could fairly be characterized as newly-discovered evidence (a proposition of which we are dubious), appellant was aware of this evidence (at the latest) on February 12, 2013. However, Figuero did not file the instant motion for postconviction relief until September 30, 2019, more than six and one-half years later. The motion was therefore untimely, and the trial court properly summarily denied it. See Fla. R. Crim. P. 3.850(b)(1) (providing: "No other motion shall be filed or considered pursuant to this rule if filed more than 2 years after the judgment and sentence become final unless it alleges that . . . the facts on which the claim is predicated were unknown to the movant or the movant's attorney and could not have been ascertained by the exercise of due diligence, and the claim is made within 2 years of the time the new facts were or could have been discovered with the exercise of due diligence."); Delgado v. State, 44 Fla. L. Weekly D2587 (Fla. 3d DCA October 23, 2019); Paz v. State, 274 So. 3d 452 (Fla. 3d DCA 2019).

Affirmed.