

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION AND,  
IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JANUARY TERM, 2004

JOHN FELSO,	**	
Appellant,	**	
vs.	**	CASE NO. 3D01-3210
THE STATE OF FLORIDA,	**	LOWER
Appellee.	**	TRIBUNAL NO. 00-384

Opinion filed June 23, 2004.

An Appeal from the Circuit Court for Monroe County, Luis M. Garcia, Judge.

Weiner & Ratzan and Jeffrey S. Weiner and Mycki Ratzan, for appellant.

Charles J. Crist, Jr., Attorney General, and Consuelo Maingot (Ft. Lauderdale), Assistant Attorney General and Melissa Vaughan Rubin, Certified out-of-state practitioner, for appellee.

Before LEVY, GODERICH, and WELLS, JJ.

PER CURIAM.

Appellant raises two issues on appeal. We affirm the trial

court as to both. As to the first issue, concerning the question of the claim of newly discovered evidence, our affirmance is without prejudice to the appellant to file any motion that might be appropriate under Rule 3.850 of the Florida Rules of Civil Procedure.

In view of the fact that we find that appellant's second point lacks merit, we do not further address it herein.