

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, A.D. 2004

JOHN BALLESTER,	**	
Appellant,	**	
vs.	**	CASE NO. 3D02-1588
THE STATE OF FLORIDA,	**	
Appellee.	**	LOWER TRIBUNAL NO. 94-31535

Opinion filed April 14, 2004.

An appeal from the Circuit Court for Miami-Dade County, Peter R. Lopez, Judge.

John Ballester, in proper person.

Charles J. Crist, Jr., Attorney General, for appellee.

Before COPE, LEVY and GREEN, JJ.

PER CURIAM.

This is an appeal of an order denying the motion of defendant-appellant Ballester for postconviction relief under Florida Rule of Criminal Procedure 3.850. The proceeding below was an evidentiary hearing on remand from Ballester v. State, 781 So. 2d 503 (Fla. 3d DCA 2001).

The trial court found that the defendant had shown good ground for relief from the time bar of Rule 3.850. See Demps v. State, 696 So. 2d 1296 (Fla. 3d DCA 1997). The trial court denied the motion as being impermissibly successive and, alternatively, on the merits.

For simplicity we assume (without deciding) that there was no successiveness bar. On the merits, the trial court rejected the defendant's claim that his trial counsel had been ineffective with respect to the issue of voluntary intoxication. We affirm because this ruling is supported by competent substantial evidence. See Machin v. State, 29 Fla. L. Weekly D467b (Fla. 3d DCA Feb. 25, 2004). Further, the claim that trial counsel was ineffective for failing to advise the defendant of the potential consequences of future recidivism was correctly rejected on authority of Major v. State, 814 So. 2d 424 (Fla. 2002).

Affirmed.