

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2002

PETER ERROL COOMBS,

**

Appellant,

**

vs.

**

CASE NO. 3D02-2007

THE STATE OF FLORIDA,

**

LOWER

Appellee.

**

TRIBUNAL NO. 94-12168

Opinion filed August 14, 2002.

An appeal under Fla. R. App. P. 9.141(b)(2) from the Circuit
Court for Dade County, Manuel A. Crespo, Judge.

Peter Errol Coombs, in proper person.

Robert A. Butterworth, Attorney General, for appellee.

Before JORGENSEN, COPE and GODERICH, JJ.

PER CURIAM.

Peter Errol Coombs appeals an order denying his motion for
postconviction DNA testing under Florida Rule of Criminal Procedure
3.853.

Defendant-appellant Coombs states that for purposes of his

1995 murder trial, DNA testing was performed on stains on a green cap owned by the defendant. According to defendant, the DNA testing was inconclusive as to whether the results matched the victim or the defendant. The defendant contends that under newer DNA testing techniques, a conclusive result could now be obtained. See Fla. R. Crim. P. 3.853(2).

We agree with the trial court's denial of the motion. The motion does not contain the required statement "that the movant is innocent and how the DNA testing requested by the motion will exonerate the movant of the crime for which the movant was sentenced, or a statement how the DNA testing will mitigate the sentence received by the movant for that crime" Id. R. 3.853(3). See Galloway v. State, 802 So. 2d 1173, 1174 (Fla. 1st DCA 2001).

Affirmed.