

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

DUANE ISAAC WALKER,

**

Appellant,

**

CASE NO. 03-2213

vs.

**

THE STATE OF FLORIDA,

**

LOWER TRIBUNAL

CASE NO. 97-28661B

Appellee.

**

Opinion filed May 5, 2004.

An appeal from the Circuit Court of Miami-Dade County, Pedro P. Echarte, Jr., Judge.

Bennett H. Brummer, Public Defender and Manuel Alvarez, Public Defender, for appellant.

Charles J. Crist, Jr., Attorney General, and Thomas C. Mielke, Assistant Attorney General, for appellee.

Before FLETCHER, WELLS, and SHEPHERD, JJ.

PER CURIAM.

Duane Isaac Walker contends that the trial court erred by

denying him a "Steele"¹ hearing.² However a Steele hearing is not required as the trial court considered Walker's belated motion for post-conviction relief and denied it on the merits³ as well as on procedural grounds.

Affirmed.

1

Steele v. Kehoe, 747 So. 2d 931 (Fla. 1999)(holding that a prisoner is entitled to a hearing on a claim that he or she missed the deadline to file a Rule 3.850 motion because his or her attorney had agreed to file the motion but failed to do so in a timely manner; if the prisoner prevails at the hearing he or she is authorized to file belatedly a Rule 3.850 motion).

2

In Steele, at 934-35, the court directly amended Rule 3.850(b) to provide for a belated appeal in situations such as Steele's. See Rule 3.850(b)(3)[2004].

3

Holding that Walker's claim was refuted by the plea colloquy.