

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., 2003

LUCIOUS THOMAS,	**	
Appellant,	**	
vs.	**	CASE NO. 3D03-2392
THE STATE OF FLORIDA,	**	LOWER
Appellee.	**	TRIBUNAL NOS. 90-44628
		86-8717A
		86-8716B
		86-8715A
		86-8554B
		86-8553B
		86-8552B

Opinion filed October 8, 2003.

An Appeal under Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Miami-Dade County, David C. Miller, Judge.

Lucious Thomas, in proper person.

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

Before COPE, GERSTEN, and RAMIREZ, JJ.

PER CURIAM.

Affirmed.

GERSTEN and RAMIREZ, JJ., concur.

Thomas v. State

Case No. 3D03-2392

COPE, J. (concurring).

I concur in the affirmance of the denial of postconviction relief. First, assuming for purposes of discussion that there is no procedural bar to the postconviction motion, defendant-appellant Thomas entered into a plea bargain with respect to his 1986 convictions which included the offenses to which he pled and the specific sentences to be imposed. This waived any double jeopardy objection. See Novaton v. State, 634 So. 2d 607 (Fla. 1994). The decision on which the defendant relies, Hall v. State, 826 So. 2d 268 (Fla. 2002), did not overturn Novaton.

Second, assuming for purposes of discussion that the rule in Hall could be applied to the defendant's case, the offenses to be scored as prior record would be the second degree felonies of dealing in stolen property--and the revised scoresheet would not change the defendant's recommended guidelines range.