

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

ROYCE M. REED,

\*\*

Appellant,

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vs.

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CASE NO. 3D04-526

THE STATE OF FLORIDA,

\*\*

LOWER

Appellee.

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TRIBUNAL NO. 89-36248

Opinion filed April 21, 2004.

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

Royce M. Reed, in proper person.

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

Before GERSTEN, GODERICH, and FLETCHER, JJ.

PER CURIAM.

Royce Reed appeals the denial of his motion for post-  
conviction DNA testing pursuant to section 925.11(1)(a), Florida

Statutes (2002), and Florida Rule of Criminal Procedure 3.853. We affirm the trial court's denial because "[a] defendant who enters a plea of guilty or nolo contendere may not seek postconviction DNA testing based on the language of the statute." Smith v. State, 854 So. 2d 684, 685 (Fla. 2d DCA 2003) (citing Stewart v. State, 840 So. 2d 438 (Fla. 5<sup>th</sup> DCA 2003)).

Affirmed.