

Third District Court of Appeal

State of Florida, January Term, A.D. 2008

Opinion filed June 25, 2008.

Not final until disposition of timely filed motion for rehearing.

No. 3D08-1291

Lower Tribunal Nos. 91-2459; 96-15332; 96-33174; 00-30662

John Capodilupo,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, John C. Schlesinger, Judge.

John Capodilupo, in proper person.

Bill McCollum, Attorney General, for appellee.

Before SHEPHERD and SALTER, JJ., and SCHWARTZ, Senior Judge.

PER CURIAM.

Affirmed. See Fla. R. Crim. P. 3.850(b)(1) (discussing what constitutes newly discovered evidence, for the purposes of filing a rule 3.850 motion outside

of the two-year time window); Major v. State, 814 So. 2d 424, 431 (Fla. 2002) (“[N]either the trial court nor counsel has a duty to advise a defendant that the defendant’s plea in a pending case may have sentence enhancing consequences on a sentence imposed for a crime committed in the future.”); Bolyea v. State, 508 So. 2d 457, 459 (Fla. 1st DCA 1987) (“A probationer, whether or not incarcerated as a condition of probation, is ‘in custody’ for purposes of rule 3.850 and may seek postconviction relief pursuant to that rule.”).