

Third District Court of Appeal

State of Florida, January Term, A.D. 2010

Opinion filed January 27, 2010.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-2038
Lower Tribunal No. 05-18027

Jerome Davis,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, William Thomas, Judge.

Carlos J. Martinez, Public Defender, and Manuel Alvarez, Assistant Public Defender, for appellant.

Bill McCollum, Attorney General, and Linda S. Katz, Assistant Attorney General, for appellee.

Before COPE and GERSTEN, JJ., and SCHWARTZ, Senior Judge.

PER CURIAM.

Affirmed without prejudice to appellant's raising a claim of ineffective assistance of trial counsel in an appropriate Rule 3.850 motion.

COPE, J. (concurring).

The sole issue raised on this direct appeal from conviction and sentence is the claim that trial counsel was ineffective and that this can be determined from the face of the record. The majority opinion affirms without prejudice to the appellant to file a postconviction motion under Florida Rule of Criminal Procedure 3.850. In so stating we are not, of course, expressing any opinion on the merits of any motion that the appellant may file.