

Third District Court of Appeal

State of Florida, January Term, A.D. 2009

Opinion filed February 18, 2009.

Not final until disposition of timely filed motion for rehearing.

No. 3D09-95

Lower Tribunal No. 03-31676

Anthony Manchild McDonald,
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, Reemberto Diaz, Judge.

Anthony Manchild McDonald, in proper person.

Bill McCollum, Attorney General, for appellee.

Before WELLS, SUAREZ, and SALTER, JJ.

PER CURIAM.

We affirm the trial court's order denying McDonald's postconviction motion filed under Florida Rule of Criminal Procedure 3.800(a). The trial court denied

relief without attaching supporting documents conclusively refuting McDonald's claim.

In this case, however, we have taken judicial notice of McDonald's previous filings in this Court. See, e.g., Romeo v. State, 965 So. 2d 197, 198 (Fla. 3d DCA 2007) (taking judicial notice of a postconviction movant's previous filings). In Case No. 3D07-2277, McDonald submitted the transcript from the applicable sentencing hearing. The transcript reveals McDonald stipulated to his prior burglary convictions. Additionally, evidence was introduced at the hearing that McDonald was released from prison some three years prior to his arrest for, and eventual conviction of, the burglary that led to his current sentence. These portions of transcript make it clear McDonald was eligible for the sentence enhancement he received as a violent career criminal pursuant to section 775.084(1)(d) of the Florida Statutes. The order on appeal is therefore affirmed.¹

¹ Because the subject postconviction claim is conclusively refuted by the record, we deny as moot McDonald's motion for an extension of time to file his initial brief.