

Third District Court of Appeal

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

Opinion filed June 17, 2009.

Not final until disposition of timely filed motion for rehearing.

No. 3D09-891

Lower Tribunal No. 91-31952

Randolph Hurley,
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, Ellen Sue Venzler, Judge.

Randolph Hurley, in proper person.

Bill McCollum, Attorney General, for appellee.

Before GERSTEN, C.J., and COPE and ROTHENBERG, JJ.

PER CURIAM.

Affirmed. See Chandler v. State, 1 So. 3d 284 (Fla. 2d DCA 2009).

COPE, J. (concurring).

In his motion for postconviction relief under Florida Rule of Criminal Procedure 3.850, Randolph Hurley states that he pled guilty to the offense of first-degree murder in 1993. Based on the trial court case number, apparently the 1991 Florida Statutes are applicable. Under the 1991 statutes, a defendant sentenced to life imprisonment for first-degree murder is eligible for parole after serving twenty-five years. § 775.082(1), Fla. Stat. (1991).

The defendant's motion confuses parole (for which he apparently is eligible) with control release (for which he is apparently not eligible). See id. § 947.146(4)(i). The defendant should contact the Parole Commission regarding his parole eligibility.