

# Third District Court of Appeal

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

Opinion filed August 25, 2010.

Not final until disposition of timely filed motion for rehearing.

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No. 3D10-1818

Lower Tribunal No. 97-30051

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**Edward Joe Young,**  
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, Jorge Cueto, Judge.

Edward Joe Young, in proper person.

Bill McCollum, Attorney General, for appellee.

Before GERSTEN, WELLS, and LAGOA, JJ.

WELLS, Judge.

Edward Joe Young appeals the summary denial of his postconviction claims raised under Florida Rules of Criminal Procedure 3.800 and 3.850. For the following reasons, we affirm the denial of all but one of his claims and remand for further proceedings consistent with this opinion.

On or about February 4, 2010, Young filed a postconviction motion claiming that the Florida Department of Corrections had impermissibly placed the defendant on community control and probation in violation of the sentence imposed by the trial court. Young also challenged the use of four prior convictions on his sentencing guidelines scoresheet, but in doing so acknowledged that this claim had been raised in a prior postconviction motion and denied. On or about March 26, 2010, Young amended his postconviction motion to raise various claims of ineffective assistance of counsel. On May 18, 2010, the lower court entered two separate orders summarily denying all of Young's postconviction claims.

We affirm the denial of Young's ineffective assistance of counsel claims as they are time barred. See Fla. R. Crim. P. 3.850(b). We affirm the denial of the claim alleging error with respect to the use of prior convictions on the sentencing scoresheet as it is successive. However, we reverse the summary denial of the claim with respect to Young being placed on community control and probation because we cannot discern the trial court's basis for denying the claim. The order denying relief does not show the rationale used by the court below to summarily

deny the motion, nor does it attach any record excerpts that specifically address the claim.<sup>1</sup>

Affirmed in part, reversed in part and remanded for further proceedings consistent with this opinion.

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<sup>1</sup> In so holding, we note that in its response to the claim filed below the State indicated that the claim was facially sufficient.