

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2014

STEVEN HATTON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

Nos. 4D10-2703 and 4D11-2210

[August 13, 2014]

Consolidated appeals of orders denying rule 3.850 motions from the Circuit Court for the Nineteenth Judicial Circuit, Okeechobee County; Robert Belanger, Judge; L.T. Case No. 472005CF000462A.

Michael Ufferman of Michael Ufferman Law Firm, P.A., Tallahassee, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Melanie Dale Surber, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

We reverse the trial court's August 20, 2010 order dismissing Appellant's first postconviction motion as facially insufficient. Just before expiration of the two-year time limit of rule 3.850(b), Appellant filed a *pro se* amended motion that was facially insufficient. The court dismissed this amended motion and gave Appellant until May 5, 2011, to file a second amended motion. Appellant retained new counsel on or about April 25, 2011, and on April 29, 2011, counsel requested a thirty-day extension of time to file a second amended motion alleging that he was in the process of obtaining the record. The court denied the extension of time and, following our relinquishment, entered a final order bringing an end to the postconviction proceedings.¹

¹ Appellant filed a premature appeal of the order dismissing his original motion and then appealed the denial of his request for an extension of time to file the second amended motion. We relinquished jurisdiction and directed the trial court to enter a final appealable order. The court entered a final order

We conclude that the motion originally filed through counsel on January 28, 2010, should not have been dismissed, as the motion was facially sufficient. We remand for consideration of this motion on the merits. We find no abuse of discretion in the trial court's denial of Appellant's request for an extension of the time to file a second amended motion.

Reversed and Remanded.

DAMOORGIAN, C.J., WARNER and FORST, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.

bringing an end to the postconviction proceedings and we consolidated the two appeals.