

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**PERRY JOSEPH,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D14-2861

[August 5, 2015]

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Lisa M. Porter, Judge; L.T. Case No. 04-1123 CF10D.

Michael B. Cohen of Michael B. Cohen, P.A., Fort Lauderdale, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Jeanine M. Germanowicz, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Perry Joseph appeals the denial of his amended rule 3.850 motion. The trial court denied the amended motion for lack of jurisdiction because appellant had filed an appeal of the denial of his prior postconviction challenge. The trial court should not have denied the motion for lack of jurisdiction. *See Jackman v. State*, 88 So. 3d 325, 327 (Fla. 4th DCA 2012). On remand, the trial court is free to consider whether the amended rule 3.850 motion is meritorious as well as whether the amended motion is procedurally barred and may be dismissed as successive or untimely.

*Reversed and remanded.*

WARNER, TAYLOR and CONNER, JJ., concur.

\* \* \*

***Not final until disposition of timely filed motion for rehearing.***