

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

WISNIA ETIENNE,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D14-4104

[July 29, 2015]

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Raag Singhal, Judge; L.T. Case No. 05-20906 CF10B.

Daniel Tibbitt of Law Offices of Andrew Rier, Miami, for appellant.

No appearance required for appellee.

PER CURIAM.

We affirm the trial court's order denying appellant's motion for postconviction relief from his twenty-five year sentence. He claims that his attorney was ineffective for misadvising him that he would be sentenced between eight and fifteen years if he rejected the state's offer of fifteen years and pled open to the court. However, during the plea colloquy, the court specifically told appellant that the court could sentence him above the state's offer up to a maximum of life in prison and confirmed that appellant understood. The court asked him if he understood that no one, at that point in time, knew what his sentence would be. The court further asked appellant whether anyone had advised him of what his sentence would be if he pled no contest, to which the appellant responded "no." The trial court informed him of the minimum and maximum for the crime. These facts from the record show conclusively that appellant could not rely on his attorney's advice in the face of the trial court's specific explanation that it could sentence him above the state's plea offer of fifteen years and appellant's agreement that no one had advised him of what his sentence would be. See *Alfred v. State*, 71 So. 3d 138, 139 (Fla. 4th DCA 2011); *Alfred v. State*, 998 So. 2d 1197, 1199-200 (Fla. 4th DCA 2009). As to appellant's second ground for relief, we also affirm. See *United States*

v. Hoffman, 733 F.2d 596 (9th Cir. 1984); *United States v. Mouzin*, 785 F.2d 682 (9th Cir. 1986).

Affirmed.

WARNER, STEVENSON and FORST, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.