

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**JOEVEL WILLIAMS,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D14-2553

[November 4, 2015]

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Matthew I. Destry, Judge; L.T. Case No. 13016271CF10A.

Carey Haughwout, Public Defender, and Virginia Murphy, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Allen Geesey, Assistant Attorney General, West Palm Beach, for appellee.

DAMOORGIAN, J.

Appellant appeals the judgment and sentence entered after his no contest plea to one count of unlawfully carrying a concealed firearm. Appellant argues that the court erred because although it granted his motion for a competency hearing under Florida Rule of Criminal Procedure 3.210(b), the court accepted his plea and sentenced him without conducting the hearing. In order to raise this issue on appeal, Appellant was required to file a motion to withdraw plea. *Burns v. State*, 884 So. 2d 1010, 1012 (Fla. 4th DCA 2004). *See also Bailey v. State*, 21 So. 3d 147, 150 (Fla. 5th DCA 2009). Because Appellant failed to do so, we can only review for fundamental error. *Burns*, 884 So. 2d at 1012. As this Court established in *Burns*, a court's failure to hold a Rule 3.210(b) competency hearing does not rise to the level of fundamental error. *Id.* at 1014.

Accordingly, we affirm the judgment and sentence without prejudice to Appellant's right to seek appropriate post-conviction relief in the trial court.

*Affirmed.*

STEVENSON and CONNER, JJ., concur.

\* \* \*

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