

THIRD DISTRICT COURT OF APPEAL OF FLORIDA

Damian L. Kelly v. State of Florida

No. 3D25-2085 (Fla. 3d DCA June 10, 2026) · No. No. 3D25-2085 · Decided June 10, 2026

SUMMARY

The Third District Court of Appeal affirmed the summary denial of Damian L. Kelly’s Florida Rule of Criminal Procedure 3.800 postconviction motion challenging the consecutive nature of his sentences under Florida’s 10-20-Life statute. The court held that Kelly’s claim had already been rejected in prior appeals and was barred from relitigation. The court also cautioned that further self-represented filings raising the same issue could result in restrictions on future filings.

CASE DETAILS

COURT	Third District Court of Appeal of Florida
WRITING FOR THE COURT	SCALES, C.J.; MILLER, J.; BOKOR, J.
JURISDICTION	Third District Court of Appeal of Florida
DECIDED	June 10, 2026
DOCKET	No. 3D25-2085
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the circuit court’s summary denial of a Florida Rule of Criminal Procedure 3.800 postconviction motion challenging the legality of consecutive sentences.
STANDARD OF REVIEW	De novo review of the legal issue presented by a Rule 3.800 motion and the summary denial of postconviction relief.
PRECEDENTIAL VALUE	published
PARTIES	Damian L. Kelly v. State of Florida

TOPICS

- post-conviction relief
- appellate procedure
- sentencing
- criminal procedure
- statutory interpretation

PRACTICE AREAS

- criminal procedure
- post-conviction relief
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QUESTIONS PRESENTED

1. Whether Kelly could relitigate in a Rule 3.800 postconviction motion his claim that consecutive sentences imposed under the 10-20-Life statute were illegal after this Court had rejected the same claim on plenary appeal and in a prior postconviction appeal.
2. Whether a 2025 amendment to the 10-20-Life statute eliminating the consecutive-sentencing requirement for a non-qualifying offense applied retroactively to Kelly's 2007 sentence.

HOLDINGS

1. Kelly's repeated challenge to the consecutive nature of his sentence is barred because this Court previously rejected the same claim; the court therefore affirmed the summary denial of his Rule 3.800 motion.
2. Kelly was not entitled to the retroactive benefit of the 2025 amendment eliminating the requirement that a sentence for a non-qualifying offense run consecutively to the qualifying offense's mandatory minimum sentence.

KEY QUOTATIONS

"This Court has twice previously rejected Kelly's arguments that his consecutive sentencing was illegal, and we do so now for the third time on the same grounds." (at 2)

"We will likely not be doing so a fourth time, however, because we caution Kelly that further self-represented filings with this Court challenging the consecutive nature of Kelly's sentence will result in this Court entering an order requiring Kelly to show cause as to why he should not be precluded from self-represented filings in this case." (at 3)

FACTUAL BACKGROUND

Kelly was sentenced in 2007 under Florida's 10-20-Life statute after convictions for aggravated battery with a firearm and shooting a deadly missile into a vehicle. He contended that the sentencing court mistakenly believed consecutive sentences were mandatory. The postconviction court concluded that the statutory framework then in effect required consecutive sentencing because the convictions included both a qualifying and a non-qualifying offense.

PROCEDURAL HISTORY

Kelly was sentenced in 2007 for aggravated battery with a firearm and shooting a deadly missile into a vehicle. After this Court rejected his sentencing argument on plenary appeal and again in a later postconviction appeal, Kelly filed the same challenge in an April 29, 2022 Rule 3.800 motion. The Miami-Dade County Circuit Court summarily denied the motion on September 28, 2025, and Kelly appealed.

DISPOSITION

affirmed

CASES CITED

- Kelly v. State, 3 So. 3d 1263 (Fla. 3d DCA 2009) (table)
- Kelly v. State, 27 So. 3d 729 (Fla. 3d DCA 2010)
- State v. McBride, 848 So. 2d 287, 291 (Fla. 2003)
- White v. State, 651 So. 2d 726, 726 (Fla. 5th DCA 1995)
- Pappas v. State, 346 So. 3d 1200, 1203 (Fla. 1st DCA 2022)

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