

DISTRICT COURT OF APPEAL OF FLORIDA, SECOND DISTRICT

Ken Patrick Brown v. State of Florida

No. 2D2024-2420 (Fla. 2d DCA July 18, 2025) · No. 2D2024-2420 · Decided July 18, 2025

SUMMARY

Ken Patrick Brown appealed an order granting in part his motion under Florida Rule of Criminal Procedure 3.801. The Florida Second District Court of Appeal reversed and remanded because it was unclear from the appellate record whether a document relied upon by the postconviction court was part of the official court record.

OPINION

Brown v. State of Florida

PER CURIAM.

DISTRICT COURT OF APPEAL OF FLORIDA

SECOND DISTRICT

KEN PATRICK BROWN,

Appellant, v.

STATE OF FLORIDA,

Appellee. No. 2D2024-2420 July 18, 2025 Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Pinellas County; Keith Meyer, Judge. PER CURIAM. Ken Patrick Brown appeals from the order granting in part his motion filed under Florida Rule of Criminal Procedure 3.801. The postconviction court's well-reasoned order is supported by the documents that it attached, but from the postconviction record on appeal it is not clear that the attached document titled "Custody Status Information" was part of the official court record in Mr. Brown's case. See Fla. R. Crim. P. 3.801(e) (incorporating rule 3.850(e), (f), (j), (k), and (n)); Fla. R. Crim. P. 3.850(f)(5) (permitting a postconviction court to summarily deny a motion "by reliance upon the records in the case"); Fla. R. Crim. P. 3.850(f)(4) (defining the "records in the case" as "the documents and exhibits previously filed in the case and those portions of the other proceedings in the case that can be transcribed"); *Cintron v. State*, 504 So. 2d 795, 796 (Fla. 2d DCA 1987) (holding that "files and records" for purposes of rule 3.850 includes only documents in "the official court record"). Accordingly, we reverse and remand for further proceedings. Reversed and remanded. VILLANTI, ATKINSON, and SMITH, JJ., Concur. Opinion subject to revision prior to official publication. 2