

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-3277

NATHANIEL CARTER, JR.,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Bradford County.
Mark W. Moseley, Judge.

July 25, 2018

PER CURIAM.

The Appellant, Nathaniel Carter, Jr., appeals from an order summarily denying his June 12, 2017, amended postconviction motion brought pursuant to Florida Rule of Criminal Procedure 3.850. We affirm the denial of that amended motion without comment. However, the record reflects that one of the Appellant's motions for rehearing¹ requested a ruling on the claims in his original rule 3.850 motion. He attached to that motion for rehearing a rule 3.850 motion bearing an institutional mail

¹ The Appellant filed two different motions for rehearing on the same date, which may have led the trial court to overlook one of the motions, believing it to be a duplicate.

stamp dated September 29, 2015. Although this motion was not docketed with the trial court, it is considered filed on the date that it was conveyed to prison officials for mailing. *See Padro-Guerrero v. State*, 123 So. 3d 670, 671 (Fla. 5th DCA 2013); *Lawson v. State*, 107 So. 3d 1228, 1228-29 (Fla. 2d DCA 2013). This September 29, 2015, rule 3.850 motion was also referenced in the amended rule 3.850 motion, which expressed the intention to add claims to a pending motion and began numbering its claims at ground five. Under these circumstances, we reverse and remand to permit the trial court to rule on the original rule 3.850 motion. *See Padro-Guerrero*, 123 So. 3d at 671; *Molfetto v. State*, 955 So. 2d 1153, 1155 (Fla. 2d DCA 2007); *Sinclair v. State*, 959 So. 2d 1277, 1278 (Fla. 1st DCA 2007).

AFFIRMED in part, REVERSED in part, and REMANDED.

WETHERELL, ROWE, and WINOKUR, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Nathaniel Carter, Jr., pro se, Appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, for Appellee.