

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2010

WILLIAM C. BAXTER,

Appellant,

v.

Case No. 5D10-3402

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed November 19, 2010

3.850 Appeal from the Circuit Court
for Citrus County,
Richard Howard, Judge.

William C. Baxter, Wewahitchka, pro se.

No Appearance for Appellee.

PER CURIAM.

We affirm the dismissal of William Baxter's motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. However, Baxter correctly observes that the judgment and sentence incorrectly refers to his conviction for possession of a firearm while engaged in a criminal offense as a first-degree felony when it is actually a second-degree felony. On remand, the trial court shall correct the judgment. Resentencing is not necessary.

AFFIRMED and REMANDED.

SAWAYA, ORFINGER and TORPY, JJ., concur.