

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

JULY TERM 2009

CHARLES WARE,

Appellant,

v.

Case No. 5D08-3645

STATE OF FLORIDA,

Appellee.

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Opinion filed August 28, 2009

Appeal from the Circuit Court
for Volusia County,
J. David Walsh, Judge.

Raymond M. Warren, of Warren & Warren,
P.A., Daytona Beach, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Anthony J. Golden,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

We affirm the defendant's conviction and sentence because we believe the trial court did not abuse its discretion in denying the defendant's motion to withdraw his plea. However, this affirmance is without prejudice to the defendant raising the ineffective assistance of counsel claim in a postconviction proceeding pursuant to rule 3.850, Florida Rules of Criminal Procedure.

AFFIRMED.

SAWAYA, COHEN and JACOBUS, JJ., concur.