

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

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

JAMES ELYSEE,

Appellant,

v.

Case No. 5D14-1940

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed December 19, 2014

3.850 Appeal from the Circuit Court
for Orange County,
Julie H. O'Kane, Judge.

James Elysee, Milton, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Robin A. Compton,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

James Elysee appeals the summary denial of his motion for postconviction relief, filed pursuant to Florida Rule of Criminal Procedure 3.850. We affirm the denial of Grounds Two, Three, and Five without further discussion. However, because the allegations contained within Grounds One and Four are not conclusively refuted by the record, we reverse the summary denial of those grounds and remand for attachment of

record excerpts conclusively refuting those claims or for an evidentiary hearing. See Freeman v. State, 761 So. 2d 1055, 1061 (Fla. 2000) ("[A] defendant is entitled to an evidentiary hearing on a postconviction relief motion unless (1) the motion, files, and records in the case conclusively show that the prisoner is entitled to no relief, or (2) the motion or a particular claim is legally insufficient.").

AFFIRMED in part, REVERSED in part, and REMANDED.

ORFINGER, BERGER and LAMBERT, JJ., concur.