

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

CHRISTIAN WILLIAMS,

Appellant,

v.

Case No. 5D13-3377

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed January 16, 2015

3.850 Appeal from the Circuit Court
for Orange County,
Michael Murphy, Judge.

Christian B. Williams, Perry, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Rebecca Roark Wall,
Assistant Attorney General, Daytona Beach,
for Appellee.

PER CURIAM.

In this postconviction case, we affirm in all respects, except the summary disposition on claim H, which relates to the affidavit of Deltinard Tousaint. The trial court erroneously determined that the facially sufficient affidavit should be disregarded because it probably would not be believed. Under the circumstances here, an evidentiary hearing is required. *See Simpson v. State*, 100 So. 3d 1258 (Fla. 4th DCA 2012).

AFFIRMED IN PART; REVERSED IN PART AND REMANDED.

TORPY, C.J., SAWAYA and COHEN, JJ., concur.