

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

CRYSTAL ANN AUSTIN,

Appellant,

v.

Case No. 5D19-670

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed December 6, 2019

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

James S. Purdy, Public Defender, and
Andrew Mich, Assistant Public Defender,
Daytona Beach, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Carmen F. Corrente,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Crystal Austin appeals the summary denial of her motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. We affirm as to Grounds Seven and Eight, but reverse as to Grounds One and Five because Austin should have been granted the opportunity to amend her motion to state a facially sufficient claim. See *Spera v. State*, 971 So. 2d 754, 761 (Fla. 2007) (“Accordingly, when a defendant’s

initial rule 3.850 motion for postconviction relief is determined to be legally insufficient for failure to meet either the rule's or other pleading requirements, the trial court abuses its discretion when it fails to allow the defendant at least one opportunity to amend the motion.").

AFFIRMED in part, REVERSED in part, and REMANDED.

EVANDER, C.J., ORFINGER and WALLIS, JJ., concur.