

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

ALEXANDER A. HERNANDEZ,

Appellant,

v.

Case No. 5D22-298
LT Case No. 2015-CF-13048

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed November 4, 2022

3.850 Appeal from the Circuit Court
for Orange County,
Bob LeBlanc, Judge.

Matthew R. McLain, of McLain Law, P.A.,
Longwood, for Appellant.

Ashley Moody, Attorney General, Tallahassee,
and Robin A. Compton, Assistant Attorney
General, Daytona Beach, for Appellee.

PER CURIAM.

Alexander A. Hernandez appeals the postconviction court's summary
denial of his eleven-ground motion for relief under Florida Rule of Criminal

Procedure 3.850. We affirm the postconviction court's summary denial of grounds two, four, five, six, and seven without further comment. We also affirm that portion of ground one relating to trial counsel's failure to cross examine the victim on her inconsistent statements about who gave her drugs because Hernandez cannot establish prejudice.

We find, however, that the record does not conclusively refute the remaining portion of ground one as well as grounds three and eight. We remand those issues for an evidentiary hearing or for the postconviction court to attach portions of the record conclusively refuting those claims.

AFFIRMED in Part; REVERSED in Part; and REMANDED.

SASSO, TRAVER and NARDELLA, JJ., concur.