

FIFTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA

Case No. 5D23-517
LT Case No. 2017-CF-1649

LIVINGSTON JARROD WINTERS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

3.850 Appeal from the Circuit Court for Putnam County.
Alicia R. Washington, Judge.

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

Ashley Moody, Attorney General, Tallahassee, and Pamela J.
Koller, Assistant Attorney General, Daytona Beach, for Appellee.

September 22, 2023

PER CURIAM.

Livingston Jarrod Winters appeals the postconviction court's amended order summarily denying grounds two, three, and four of his Florida Rule of Criminal Procedure 3.850 motion for

postconviction relief after remand.¹ Concluding that the record attachments to the amended order have not conclusively refuted Winters’s claim for relief on ground two, we reverse that aspect of the amended order and remand for an evidentiary hearing.² We affirm the postconviction court’s denial of grounds three and four without further discussion.

AFFIRMED, in part, REVERSED, in part, and REMANDED for further proceedings.

EDWARDS, C.J., MAKAR and LAMBERT, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

¹ In *Winters v. State*, 347 So. 3d 526 (Fla. 5th DCA 2022), we affirmed the lower court’s summary denial of ground one of Winters’s motion. We reversed the summary denial of grounds two, three, and four and remanded for the court to either attach records to its order that conclusively refuted these grounds for relief or to hold an evidentiary hearing. *Id.* at 528. The court subsequently attached records to its amended order and did not hold a hearing.

² To facilitate the resolution of this evidentiary hearing, the postconviction court may wish to consider granting Winters leave to more fully explain ground two of his pro se motion.