

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

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

JOSEPH C. HERRING,

Appellant,

v.

CASE NO. 1D08-0451

STATE OF FLORIDA,

Appellee.

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Opinion filed September 22, 2008.

An appeal from the Circuit Court for Liberty County.

L. Ralph Smith, Jr., Judge.

Joseph C. Herring, pro se, Appellant.

Bill McCollum, Attorney General, and Joshua R. Heller, Assistant Attorney General,  
Tallahassee, for Appellee.

PER CURIAM.

Based on the state's proper concession of error, we reverse the trial court's  
summary denial of appellant's postconviction claims 19 and 21 and remand either for

attachment of portions of the record refuting the claims or for an evidentiary hearing.

The trial court's summary denial of all other claims is affirmed.

REVERSED IN PART; AFFIRMED IN PART; REMANDED FOR FURTHER  
PROCEEDINGS.

BROWNING, C.J., PADOVANO and POLSTON, JJ., CONCUR.