

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

LAWRENCE DIGSBY,

Appellant,

v.

CASE NO. 1D09-0364

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed June 30, 2009.

An appeal from the Circuit Court for Escambia County.
Nickolas P. Geeker, Judge.

Lawrence Digsby, pro se, Appellant.

Bill McCollum, Attorney General and Charlie McCoy, Assistant Attorney General,
Tallahassee, for Appellee.

PER CURIAM.

Appellant appeals the denial of his postconviction motion filed pursuant to Florida Rule of Criminal Procedure 3.850. We affirm the denial of all but two of appellant's claims.

As to appellant's claim that counsel was ineffective for failing to obtain videotapes which allegedly showed the incident giving rise to the charges (ground

D), we reverse and remand for the trial court to either attach portions of the record conclusively refuting the claim or for an evidentiary hearing. As to appellant's claim that counsel was ineffective for failing to impeach Mr. Swindell with prior convictions (ground M), we reverse and remand with directions that the trial court give appellant leave to amend his facially insufficient claim. See Spera v. State, 971 So. 2d 754 (Fla. 2007) (holding that a trial court must allow the defendant at least one opportunity to amend a facially insufficient postconviction motion if it can be amended in good faith).

AFFIRMED in part, and REVERSED and REMANDED in part, with directions.

ALLEN, PADOVANO and BROWNING, JJ., CONCUR.