

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**AUGUSTUS ROSE,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D15-1708

[September 7, 2016]

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, Okeechobee County; Sherwood Bauer, Jr., Judge; L.T. Case No. 2013CF579.

Carey Haughwout, Public Defender, and Patrick B. Burke, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Mitchell A. Egber, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

This is a defendant's appeal of an order summarily denying his pro se motion to withdraw plea. We find that the trial court erred in failing to appoint counsel to assist the defendant in preparing and presenting the motion. *Guzman v. State*, 994 So. 2d 1252 (Fla. 4th DCA 2008) (holding that the trial court erred in denying defendant's motion to withdraw the plea without first appointing conflict-free counsel to advise and assist defendant in the motion); *Schriber v. State*, 959 So. 2d 1254 (Fla. 4th DCA 2007). We therefore reverse and remand and direct the trial court to appoint conflict-free counsel to assist the defendant in drafting a motion to withdraw his plea under Florida Rule of Criminal Procedure 3.170(l). The trial court may then determine whether to summarily deny the motion or to hold an evidentiary hearing. *Woodly v. State*, 937 So. 2d 193, 196 (Fla. 4th DCA 2006) ("Where a defendant files a facially sufficient motion to withdraw his plea, he is entitled to an evidentiary hearing on the issues unless the record conclusively refutes his allegations.").

*Reversed and remanded with directions.*

CIKLIN, C.J., GERBER and LEVINE, JJ., concur.

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***Not final until disposition of timely filed motion for rehearing.***