

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2005*

**ANTHONY TERRELL HORTON,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D05-300

[July 13, 2005]

PER CURIAM.

Anthony Terrell Horton filed a motion for postconviction relief pursuant to rule 3.850 of the Florida Rules of Criminal Procedure. Among his eight claims for relief, Horton asserted that his trial counsel was ineffective for failing to properly investigate Corey Saunders as a defense witness. We find Horton's claim legally sufficient, and not refuted by the record. *Jacobs v. State*, 880 So.2d 548 (Fla. 2004). Consequently, claims four and five concerning Saunders should be the subject of an evidentiary hearing. We affirm the trial court's summary denial of the remaining claims.

POLEN, KLEIN and HAZOURI, JJ., concur.

\* \* \*

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Richard I. Wennet, Judge; L.T. Case No. 01-1671 CFA02.

Anthony Terrell Horton, Avon Park, pro se.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Melanie Dale Surber, Assistant Attorney General, West Palm Beach, for appellee.

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