

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2007*

**KENNETH JONES,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D07-1401

September 19, 2007

PER CURIAM.

Kenneth Jones appeals the trial court's order summarily denying his amended motion for post-conviction relief alleging ineffective assistance of trial counsel for failure to investigate, interview or call a witness for trial. This court affirmed the summary denial of Jones' last rule 3.850 motion for post-conviction relief alleging this claim, but without prejudice to his right to file an amended motion in the trial court limited to the claim of ineffective assistance of counsel for failure to investigate and call a witness under *Nelson v. State*, 875 So. 2d 579 (Fla. 2004). See *Jones v. State*, 929 So. 2d 615 (Fla. 4th DCA 2006).

Jones filed that amended motion, styled as his "response to this Honorable Court's Order Dated Jan 22, 2007 to amend his amended motion for post conviction relief." We find that the allegations he made in this latest amended motion were sufficient under *Nelson* and *Strickland v. Washington*, 466 U. S. 668 (1984).

Accordingly, we reverse the trial court's summary denial of this claim and remand for an evidentiary hearing or the attachment of portions of the record that conclusively refute this claim.

REVERSED AND REMANDED.

GUNTHER, STONE and WARNER, JJ., concur.

\* \* \*

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Paul L. Backman, Judge; L.T. Case No. 00-21199 CF10A.

Kenneth Jones, Malone, pro se.

Bill McCollum, Attorney General, Tallahassee, and James J. Carney, Assistant Attorney General, West Palm Beach, for appellee.

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