

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

WAYMOND JOE GIBSON,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D07-1652

[July 18, 2007]

PER CURIAM.

This is an appeal by Waymond Joe Gibson from an order denying a motion filed under rule 3.850, Florida Rules of Criminal Procedure. Gibson's claim challenges the restructuring of his sentencing in connection with a *Hale v. State*, 630 So.2d 521 (Fla. 1993) violation, and his allegation that trial counsel was ineffective during that resentencing hearing.

We reverse the summary denial of relief for either an evidentiary hearing or the attachment of portions of the record that conclusively refute Gibson's ground for relief. See *Jackson v. State*, 825 So.2d 1021 (Fla. 1st DCA 2002); *Kiedrowski v. State*, 876 So.2d 692 (Fla. 1st DCA 2004).

POLEN, STEVENSON and MAY, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; James W. McCann, Judge; L.T. Case No. 561989CF557A.

Waymond Joe Gibson, Avon Park, pro se.

Bill McCollum, Attorney General, Tallahassee, and Sue-Ellen Kenny, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing