

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2008

ANNA BANKS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D07-4958

[March 12, 2008]

PER CURIAM.

We reverse the order denying appellant's 3.850 motion and remand for further proceedings on appellant's claim that a sufficient factual basis did not exist for her plea to attempted robbery in lower court case number 06-15385 and that counsel was ineffective in permitting her to plead to this charge. While the trial court relied on the probable cause affidavit as the factual basis for the plea, a copy of the affidavit was not attached to the trial court's order of denial. *See Farran v. State*, 694 So. 2d 877 (Fla. 2d DCA 1997). Appellant's legally sufficient claim that a factual basis did not exist for the charge was not refuted by the trial court's record attachments. Florida Rule of Criminal Procedure 3.850(d) is not satisfied by merely attaching the entire record on appeal. *Hoffman v. State*, 571 So. 2d 449 (Fla. 1990). On remand, the trial court must determine the merits of this claim.

We affirm the denial of appellant's other claims as they lack merit.

WARNER, FARMER and GROSS, JJ., concur.

* * *

Appeal of order denying rule 3.850 motions from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Edward A. Garrison, Judge; L.T. Case Nos. 2004CF002488AXX & 2006CF015385AXX.

Anna Banks, Florida City, pro se.

Bill McCollum, Attorney General, Tallahassee, and Mark J. Hamel,

Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.