

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

ROBERT WOOLARD,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-1371

[October 29, 2008]

PER CURIAM.

We reverse and remand the dismissal with prejudice of Woolard's amended rule 3.850 motion for postconviction relief. As the dismissal without prejudice of his initial motion did not advise him that the insufficiency concerned his having alleged Paragraphs 32 and 56 "upon information and belief," but pointed out only the insufficiency of his oath at the end of his motion, which he promptly corrected, the trial court should have been given him one more opportunity to amend. As the time for filing a timely rule 3.850 expired—in this case, after the filing of the amended motion—the trial court on remand should give Woolard a brief period of time within which to amend.

POLEN, TAYLOR and HAZOURI, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Joel T. Lazarus, Judge; L.T. Case No. 01-15186CF10A.

Robert Woolard, Mayo, pro se.

Bill McCollum, Attorney General, Tallahassee, and Daniel P. Hyndman, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.