

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

**CLARENCE ANTHONY HARTLEY,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D08-2562

[ November 19, 2008 ]

PER CURIAM.

Clarence Hartley appeals the final order entered by the trial court summarily denying his motion for postconviction relief which raised four claims. See Fla. R. Crim. P. 3.850. We affirm the denial of claims one, three and four. However, in claim two, appellant has stated a sufficient claim for ineffective assistance of counsel in that his trial counsel failed to make a legally sufficient motion for judgment of acquittal at his trial particularly on the charge of felony petit theft. We therefore reverse the trial court's summary denial and remand for an evidentiary hearing.

*Affirmed in Part; Reversed in Part; and Remanded.*

TAYLOR, HAZOURI and MAY, JJ., concur.

\* \* \*

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Charles E. Burton, Judge; L.T. Case No. 2005CF008174AXX.

Clarence Anthony Hartley, Perry, pro se.

No appearance required for appellee.

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