

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

SCOTT BAKER,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-2924

[December 10, 2008]

PER CURIAM.

Scott Baker seeks to reverse the trial court's order denying his motion filed pursuant to Florida Rule of Criminal Procedure 3.850. We reverse and remand for further review of the claims on the merits. As the state recognizes in its response to this court, the claims are cognizable. See *e.g. Bussey v. State*, 929 So. 2d 708 (Fla. 4th DCA 2006); *Murphy v. State*, 930 So. 2d 794 (Fla. 1st DCA 2006).

On remand, the trial court should either attach portions of the record conclusively refuting Baker's claims or conduct an evidentiary hearing. The trial court is requested to review this matter expeditiously due to the potential of the defendant's release date being in March, 2009.

Reversed and Remanded.

WARNER, MAY and DAMOORGIAN, JJ., concur.

* * *

Appeal of order denying 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Dale C. Cohen, Judge; L.T. Case No. 03-11011 CFA.

Scott Baker, Florida City, 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.