

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

ROBERT S. NEWMAN,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-520

[May 21, 2008]

PER CURIAM.

Appellant Robert Newman appeals the trial court's order summarily denying his motion for post conviction relief on five grounds. We affirm the trial court's summary denial of ground three of the motion on its merit as appellant's allegations were adequately refuted by the transcript attached to his motion showing the warning given pursuant to *Miranda v. Arizona*, 384 U.S. 436 (1966). However, we reverse the trial court's summary denial of appellant's other claims, 1, 2, 4 and 5, and remand to the trial court to permit appellant to file a facially sufficient motion within the time parameters of rule 3.850, pursuant to *Spera v. State*, 971 So. 2d 754 (Fla. 2007).

Affirmed in part, Reversed in part, and Remanded.

STEVENSON, GROSS and MAY, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Nineteenth Judicial Circuit, Martin County; Robert E. Belanger, Judge; L.T. Case No. 432002CF001414A.

Robert S. Newman, Perry, pro se.

Bill McCollum, Attorney General, Tallahassee, and Don M. Rogers, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.