

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2010

JARVIS HARVARD,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D09-3731

[November 17, 2010]

PER CURIAM.

Jarvis Harvard appeals an order summarily denying his motion for postconviction relief under Florida Rule of Criminal Procedure 3.850. Harvard raised several points in his rule 3.850 motion. We reverse and remand for further review of Harvard's claim that counsel failed to call the co-defendants as trial witnesses to support his claim that he did not know of their plan to commit the grand theft for which he was tried as a principal. *See generally Brown v. State*, 892 So. 2d 1119 (Fla. 2d DCA 2004); *Jimenez v. State*, 754 So. 2d 825 (Fla. 3d DCA 2000). As alleged, the claim is sufficiently plead and not refuted by the record furnished. *See, e.g., Banks v. State*, 825 So. 2d 478 (Fla. 4th DCA 2002). We affirm the denial of the remaining claims without discussion.

POLEN, TAYLOR and GERBER, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Michael L. Gates, Judge; L.T. Case No. 06-7373CF10A.

Jarvis Harvard, Wewahitchka, pro se.

Bill McCollum, Attorney General, Tallahassee, and Diane F. Medley, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.