

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

ROBERT WILTON COX, JR.,	)	
	)	
Appellant,	)	
	)	
v.	)	Case No. 2D12-5278
	)	
STATE OF FLORIDA,	)	
	)	
Appellee.	)	
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Opinion filed April 24, 2013.

Appeal pursuant to Fla. R. App. P.  
9.141(b)(2) from the Circuit Court for Lee  
County; Mark A. Steinbeck, Judge.

Robert Wilton Cox, Jr., pro se.

PER CURIAM.

Robert Wilton Cox, Jr., appeals the order summarily denying his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850 in August 2012. We affirm without discussion the denial of all of the grounds of his motion except one.

In ground eight, Mr. Cox argued that he was denied due process when he was forced to proceed to trial while incompetent. He claimed that the trial court entered an order for a competency examination and an order appointing examiners, but that no

further action occurred to resolve the issue before he was tried. He asserted that his lawyer was ineffective in this regard.

The postconviction court did not attach to its order portions of the record refuting this claim. The record tends to support Mr. Cox's factual allegations that an order for a competency examination is in the trial court record and that no further action was taken on the order. Accordingly, we reverse the postconviction court's order on this claim. On remand, the court shall attach the portions of the record that conclusively refute ground eight or conduct an evidentiary hearing.

Affirmed in part, reversed in part, and remanded with directions.

ALTENBERND, NORTHCUTT, and MORRIS, JJ., Concur.