

Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed December 31, 2008.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-1756
Lower Tribunal No. 05-22821

Pamela Fussel,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Bertila Soto, Judge.

Pamela Fussel, in proper person.

Bill McCollum, Attorney General, for appellee.

Before GERSTEN, C.J., SHEPHERD, J., and SCHWARTZ, Senior Judge.

PER CURIAM.

This is an appeal of an order summarily denying a motion under Florida Rule of Criminal Procedure 3.850. On appeal from a summary denial, this Court

must reverse unless the postconviction record shows conclusively that the appellant is entitled to no relief. See Fla. R. App. P. 9.141(b)(2) (A), (D).

Because the record now before us fails to make the required showing, we reverse the order and remand for an evidentiary hearing or other appropriate relief. If the trial court again enters an order summarily denying the postconviction motion, the court shall attach record excerpts conclusively showing that the appellant is not entitled to any relief.

Reversed and remanded for further proceedings.