

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION  
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D. 2006

PATRICK PENN,

Appellant,

vs.

THE STATE OF FLORIDA,

Appellee.

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\*\* CASE NO. 3D06-2182

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\*\* LOWER  
TRIBUNAL NO. 02-3937

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Opinion filed November 8, 2006

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

Patrick Penn, in proper person.

Charles J. Crist, Jr., Attorney General, for appellee.

Before GERSTEN, GREEN, and RAMIREZ, JJ.

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 post-  
conviction 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 a hearing or for the attachment of record excerpts conclusively showing that the appellant is not entitled to any relief. See Fla. R. App. P. 9.141 (b) (2) (D).

Reversed and remanded for further proceedings.