

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

RANDY SEGAL,

Appellant,

v.

Case No. 5D14-225

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed June 20, 2014

3.850 Appeal from the Circuit Court
for Hernando County,
Anthony M. Tatti, Judge.

Randy Segal, Madison, pro se.

No Appearance for Appellee.

PER CURIAM.

Randy Segal appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. We affirm without comment the denial of claim two. However, because the record on appeal does not conclusively refute claim one, we reverse the summary denial of that claim and remand for attachment of portions of the record refuting claim one or for an evidentiary hearing. See Freeman v. State, 761 So. 2d 1055, 1061 (Fla. 2000) ("[A] defendant is entitled to an evidentiary hearing on a postconviction relief motion unless (1) the motion, files, and records in the

case conclusively show that the prisoner is entitled to no relief, or (2) the motion or a particular claim is legally insufficient.").

AFFIRMED in part; REVERSED in part; and REMANDED with instructions.

EVANDER, COHEN and BERGER, JJ., concur.