

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

MARCOS BONIA,

Appellant,

v.

Case No. 5D15-2492

STATE OF FLORIDA,

Appellee.

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Opinion filed August 26, 2016

Appeal from the Circuit Court  
for Orange County,  
Greg A. Tynan, Judge.

James S. Purdy, Public Defender, and  
Jacqueline Rae Luker, Assistant Public  
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Allison Leigh Morris,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

PER CURIAM.

Appellant challenges the order summarily denying his motion for return of property. The State properly concedes error in that the trial court did not address the applicability of section 705.105, Florida Statutes. See *Davis v. State*, 63 So. 3d 888, 889 (Fla. 5th DCA 2011) (holding that lower court must attach records to establish property was seized

as evidence to support summary denial of motion for return of property pursuant to section 705.105); *Stevenson v. State*, 688 So. 2d 962 (Fla. 5th DCA 1997) (reversing denial of motion for return of property pursuant to section 705.105 where record did not establish statute applied).

REVERSED AND REMANDED.

LAWSON, C.J., ORFINGER and TORPY, JJ., concur.