

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

JOHN HAYWARD,

Appellant,

v.

Case No. 5D15-2609

STATE OF FLORIDA,

Appellee.

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Opinion filed June 24, 2016

3.850 Appeal from the Circuit Court  
for Orange County,  
Keith A. Carsten, Judge.

William R. Ponall, of Ponall Law, Maitland,  
for Appellant.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Lori N. Hagan, Assistant  
Attorney General, Daytona Beach, for  
Appellee.

PER CURIAM.

John Hayward appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. We affirm as to Grounds One, Two, Three, Five, and the supplemental claim. However, because the record does not conclusively refute Hayward's claim that counsel was ineffective for failing to object to the admission of collateral crimes evidence, we reverse the summary denial of Ground Four

and remand for attachment of portions of the record conclusively refuting that claim 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." (citing Maharaj v. State, 684 So. 2d 726 (Fla. 1996))).

AFFIRMED in part, REVERSED in part, and REMANDED.

ORFINGER, BERGER and LAMBERT, JJ., concur.