

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

LARRY MADISON,

Appellant,

v.

Case No. 5D15-3909

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed June 3, 2016

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

Larry Madison, Sneads, pro se.

No Appearance for Appellee.

PER CURIAM.

Larry Madison appeals the summary denial of his second amended motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. We affirm as to Grounds One, Two, and Three.¹ However, because the record does not conclusively refute Madison's claim that counsel was ineffective for failing to file a motion

¹ Madison raised six claims in his motion, three of which appear to overlap. The trial court addressed each, but identified only four in the order denying the motion. This opinion addresses the claims as numbered in the trial court's order.

to suppress, 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.” (citations omitted)).

AFFIRMED IN PART, REVERSED IN PART, and REMANDED.

PALMER, BERGER and LAMBERT, JJ., concur.