

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

HENRY LAMAR DAVIS, JR.,

Appellant,

v.

Case No. 5D15-4138

STATE OF FLORIDA,

Appellee.

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Opinion filed June 3, 2016

3.850 Appeal from the Circuit Court  
for Putnam County,  
Patti A. Christensen, Judge.

Henry Lamar Davis, Jr., Daytona  
Beach, pro se.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Marjorie Vincent-  
Tripp, Assistant Attorney General,  
Daytona Beach, for Appellant.

PER CURIAM.

Henry Lamar Davis, Jr., appeals the summary denial of his Rule 3.850 motion for postconviction relief. Davis filed an initial Rule 3.850 motion in June of 2014. That motion was denied on November 18, 2014, and Davis did not appeal the denial. Six months later, Davis filed another Rule 3.850 motion, which was also denied.<sup>1</sup>

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<sup>1</sup> Davis's initial brief is really no more than yet another Rule 3.850 motion alleging the same forty-one grounds for relief. Twenty-four of these claims untimely challenged the trial court's 2009 and 2011 judgments.

The trial court denied the motion in part as impermissibly successive, correctly noting that Davis neither labeled the motion as successive nor justified the failure to raise the asserted grounds in his prior motion. The trial court failed, however, to attach a copy of the prior motions and orders in support of its ruling as required by Florida Rule of Criminal Procedure 3.850(h)(2). The State concedes this was error. We reverse and remand for attachment of the prior Rule 3.850 motion and the resulting order as it relates to Davis's allegations of ineffective assistance of counsel in his violation-of-probation cases. We affirm as to the claims related to the original proceedings and alleging trial court error.

AFFIRMED IN PART; REVERSED IN PART; AND REMANDED.

SAWAYA, COHEN and WALLIS, JJ., concur.