

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

JOSHUA F. ROE,

Appellant,

v.

Case No. 5D15-4309

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed July 29, 2016

3.850 Appeal from the Circuit Court
for Osceola County,
Jon B. Morgan, Judge.

Joshua F. Roe, Chipley, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Douglas T. Squire,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Joshua F. Roe appeals the denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. Roe's motion alleged twenty-three claims of ineffective assistance of trial counsel and one claim of cumulative error. The trial court granted an evidentiary hearing on Roe's claim sixteen and summarily denied the remaining claims. This appeal followed.

We affirm the trial court's order except as to claims six, eight, and nine. As to claim six and the portion of claim nine asserting that Donna and Allan Hardimon would have given evidence helpful to the defense's theory, we conclude that such claims were facially insufficient and should have been stricken with leave to amend within the time frame provided by rule 3.850(b)(1). See Spera v. State, 971 So. 2d 754 (Fla. 2007). With respect to claim eight, we remand for the trial court to either attach records conclusively refuting Roe's claim, or, in the alternative, hold an evidentiary hearing.

AFFIRMED IN PART; REVERSED IN PART; REMANDED.

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