

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

BYRON JACKSON,

Appellant,

v.

Case No. 5D16-1195

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed July 29, 2016

3.850 Appeal from the Circuit
Court for Lake County,
William G. Law, Jr., Judge.

Lanitra S. Sanchez, of Sanchez Law, P.A.,
Tampa, for Appellant.

No Appearance for Appellee.

PER CURIAM.

Byron Jackson appeals the summary denial of his motion for post-conviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. Jackson was sentenced to a ten-year minimum mandatory prison sentence on a charge of burglary of a dwelling with a firearm and concurrent five-year prison sentences on two grand theft charges after entering an open plea to the court. In his motion, Jackson alleged that his attorney was ineffective in misadvising him that if he entered an open plea, he would likely be

sentenced as a youthful offender and receive a sentence of five years' incarceration or less. Jackson further alleged that, but for this misadvice, he would not have entered a plea but would have proceeded to trial.

In summarily denying the motion, the trial court attached a transcript of the sentencing hearing, but not the plea hearing, to its order. That attachment failed to conclusively refute Jackson's claim. Accordingly, we reverse and remand for the trial court to either hold an evidentiary hearing or attach records that conclusively refute Jackson's claim.

REVERSED and REMANDED.

TORPY, EVANDER and COHEN, JJ., concur.