

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

JAMALL MITCHELL,

Appellant,

v.

Case No. 5D16-2151

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed December 16, 2016

3.850 Appeal from the Circuit
Court for Orange County,
Mark S. Blechman, Judge.

Carlos A. Ivanor, Jr., of The Ivanor Law
Firm, Orlando, for Appellant.

No Appearance for Appellee.

PER CURIAM.

Appellant, Jamall Mitchell, appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. Appellant included eight specific claims in his motion. All of those claims are conclusively refuted by the record except for the following: 1) failure to call an alibi witness; 2) misadvice about the right to testify; and 3) newly discovered evidence in the form of a witness's recanted testimony. As to these three claims, we reverse that part of the order under review

summarily denying them and remand for attachment of the portions of the record that conclusively refute those claims or for an evidentiary hearing.

AFFIRMED in part; REVERSED in part; REMANDED.

SAWAYA, EVANDER and EDWARDS, JJ., concur.