

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

LETHENA SMITH,

Appellant,

v.

Case No. 5D16-3

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed May 27, 2016

3.850 Appeal from the Circuit
Court for Orange County,
Renee A. Roche, Judge.

Lethena Smith, Quincy, pro se.

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

PER CURIAM.

Lethena Smith appeals the final order entered by the trial court summarily denying her Florida Rule of Criminal Procedure 3.850 motion for postconviction relief. The motion alleged ineffective assistance of trial counsel which resulted in Smith's convictions on second-degree murder and aggravated battery. We affirm as to the denial of Smith's first and fourth grounds for relief, but reverse as to the denial of her second ground for relief (failure to request DNA testing) and her third ground for relief (failure to introduce

admissions of a witness) because the trial court failed to attach documents which conclusively refute those claims. Accordingly, we reverse and remand for the trial court to either attach documents sufficient to conclusively refute Smith's second and third grounds for relief or to hold an evidentiary hearing thereon.

AFFIRMED in part; REVERSED in part; and REMANDED.

SAWAYA, PALMER and TORPY, JJ., concur.