

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

JEFFREY W. DAVIS,

Appellant,

v.

Case No. 5D16-3253

STATE OF FLORIDA,

Appellee.

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Opinion filed April 7, 2017

3.850 Appeal from the Circuit Court  
for Citrus County,  
Richard A. Howard, Judge.

Jeffrey W. Davis, Sneads, pro se.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Deborah A. Chance,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

PER CURIAM.

Jeffrey W. Davis appeals the summary denial of his motion for postconviction relief filed under Florida Rule of Criminal Procedure 3.850. We affirm without comment the denial of postconviction relief except on one ground.

In ground one, Davis alleged ineffective assistance of his trial counsel for failure to explain to him the availability of a defense to the charge of lewd or lascivious molestation

of a child on the basis of voluntary and involuntary intoxication. The trial court properly denied ground one insofar as it asserted counsel was ineffective for failing to present a voluntary intoxication defense. Voluntary intoxication is not a defense in Florida. See § 775.051, Fla. Stat. (2014). However, involuntary intoxication is a valid defense. Stimus v. State, 995 So. 2d 1149 (Fla. 5th DCA 2008). Thus, as for the ineffective assistance claim asserted in ground one based on involuntary intoxication, we reverse and remand for an evidentiary hearing or the attachment of portions of the record conclusively showing Davis is not entitled to relief either on the merits or because the motion is successive.

AFFIRMED in part; REVERSED in part; REMANDED for further proceedings.

ORFINGER, WALLIS and EDWARDS, JJ., concur.