

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

WILFRED EXALISSE,

Appellant,

v.

Case No. 5D18-1647

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed August 24, 2018

3.850 Appeal from the Circuit Court
for Orange County,
John E. Jordan, Judge.

Wilfred Exalisse, Bushnell, pro se.

No Appearance for Appellee.

PER CURIAM.

Wilfred Exalisse appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. We affirm, except as to the denial of Exalisse's second claim. The records attached to the trial court's order do not conclusively refute Exalisse's claim that his trial counsel had affirmatively misrepresented the sentence that Exalisse would receive if he entered an open plea to the court. See, e.g., *Collazo v. State*, 8 So. 3d 1273, 1274 (Fla. 5th DCA 2009) (holding the general

question during plea colloquy about promises made in exchange for plea is insufficient to conclusively refute allegation of specific misadvice by counsel about length of sentence).

On remand, the trial court shall either attach additional records conclusively refuting this claim or hold an evidentiary hearing.

AFFIRMED, in part; REVERSED, in part; and REMANDED.

TORPY, EVANDER and BERGER, JJ., concur.