

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

AMADOR MALDONADO,

Appellant,

v.

Case No. 5D18-17

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed June 29, 2018

3.850 Appeal from the Circuit Court
for Orange County,
Leticia J. Marques, Judge.

Amador Maldonado, Crawfordville, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Rebecca Rock
McGuigan, Assistant Attorney General,
Daytona Beach, for Appellee.

PER CURIAM.

Amador Maldonado appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. We affirm as to Grounds One, Two, Three, Four, Five, Seven, and Eight. However, because the record does not conclusively refute Maldonado's claim that counsel was ineffective for failing to investigate and call witnesses, we reverse the summary denial of Ground Six and remand

for attachment of portions of the record conclusively refuting that claim or for an evidentiary hearing. See Freeman v. State, 761 So. 2d 1055, 1061 (Fla. 2000) ("[A] defendant is entitled to an evidentiary hearing on a postconviction relief motion unless (1) the motion, files, and records in the case conclusively show that the prisoner is entitled to no relief, or (2) the motion or a particular claim is legally insufficient." (citing Maharaj v. State, 684 So. 2d 726 (Fla. 1996))).

AFFIRMED in part; REVERSED in part; and REMANDED.

SAWAYA, BERGER and EISNAUGLE, JJ., concur.