

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

COREY THOMAS,

Appellant,

v.

Case No. 5D18-185

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed July 6, 2018

3.850 Appeal from the Circuit
Court for Orange County,
Kim Shepard, Judge.

Corey, Thomas, Jasper, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Lori Hagan, Assistant
Attorney General, Daytona Beach, for
Appellee.

PER CURIAM.

Appellant challenges the summary denial of his Florida Rule of Criminal Procedure 3.850 motion. We find merit in Appellant's challenge to the summary denial of claim 3 and, accordingly, reverse as to that claim. In all other respects, we affirm.

Claim 3 involves the contention that counsel was ineffective in advising Appellant to withdraw a motion to sever the murder charge from the possession of a firearm by a

convicted felon charge. The trial court concluded that this was an obvious trial strategy that could be discerned conclusively from the records attached to the order. We disagree. On remand, unless other records exist that conclusively refute this claim, the trial court shall conduct an evidentiary hearing on claim 3.

AFFIRMED IN PART; REVERSED IN PART AND REMANDED.

SAWAYA, PALMER and TORPY, JJ., concur.