

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

MATTHEW PIRIE,

Appellant,

v.

Case No. 5D18-730

STATE OF FLORIDA,

Appellee.

\_\_\_\_\_ /

Opinion filed September 28, 2018

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

Terrence E. Kehoe, of Law Office of  
Terrence E. Kehoe, Orlando, for Appellant.

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

PER CURIAM.

Matthew Pirie appeals the summary denial of his Florida Rule of Criminal Procedure 3.850 motion for postconviction relief. While the court properly determined that Pirie's motion was facially insufficient, it should have given him at least one opportunity to amend. See Fla. R. Crim. P. 3.850(f)(2) ("If the motion is insufficient on its face, and the motion is timely filed under this rule, the court shall enter a nonfinal,

nonappealable order allowing the defendant 60 days to amend the motion.”); Spera v. State, 971 So. 2d 754, 761-62 (Fla. 2007) (holding that trial court must give defendant one opportunity to amend facially deficient claims).

Accordingly, we reverse the summary denial and remand with directions that the court strike Pirie’s motion and grant him sixty days to file an amended motion if he can do so in good faith.

REVERSED and REMANDED.

ORFINGER, EVANDER and HARRIS, JJ., concur.