

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

QUINCY JONES,

Appellant,

v.

Case No. 5D18-2291

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed December 6, 2019

3.850 Appeal from the Circuit Court
for Orange County,
John Marshall Kest, Judge.

James S. Purdy, Public Defender, and
Shawna R. Moyers, Assistant Public
Defender, Daytona Beach, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Robin A. Compton,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Quincy Jones appeals the summary denial of his Florida Rule of Criminal Procedure 3.850 motion for postconviction relief alleging ineffective assistance of counsel. Because the records attached to the order do not conclusively refute Jones's claim in Ground Six that trial counsel was ineffective for failing to notify the trial court

during the trial of a discovery violation and request a Richardson¹ hearing on the State's alleged coercion of James Phillips's testimony,² we reverse the order under review and remand for attachment of portions of the record conclusively refuting Jones's claim, or in the absence of such records, 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))). We affirm in all other respects.

AFFIRMED IN PART; REVERSED IN PART; and REMANDED.

ORFINGER and HARRIS, JJ., and JACOBUS, B.W., Senior Judge, concur.

¹ Richardson v. State, 246 So. 2d 771, 774–75 (Fla. 1971).

² In Ground Six, Jones alleged, among other things, that he informed trial counsel of the purported discovery violation on the morning of the second day of trial. Trial counsel's statement at the sentencing hearing, which the trial court ruled showed that trial counsel learned of the alleged discovery violation after the trial concluded, is too ambiguous to conclusively refute Jones's allegation on this point.