

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

JEVERIOUS FRANKLIN,

Appellant,

v.

Case No. 5D19-1620

STATE OF FLORIDA,

Appellee.

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Opinion filed December 6, 2019

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

Jeverious Franklin, Malone, pro se.

Ashley Moody, Attorney General,  
Tallahassee, and Pamela J. Koller,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

JACOBUS, B.W., Senior Judge.

Jeverious Franklin appeals the summary denial of his Florida Rule of Criminal Procedure 3.850 motion for postconviction relief alleging newly discovered evidence regarding the poor job performance and termination of the latent fingerprint examiner who examined the fingerprints used to identify Franklin. Because the records attached to the order do not conclusively refute Franklin's claim, we reverse the order under review and

remand for attachment of portions of the record conclusively refuting Franklin'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))).

REVERSED AND REMANDED.

ORFINGER and COHEN, JJ., concur.