

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

ROOSEVELT BRADLEY, II,

Appellant,

v.

Case No. 5D20-391

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed March 27, 2020

3.850 Appeal from the Circuit
Court for Orange County,
Gail A. Adams, Judge.

Roosevelt Bradley, II, Bushnell, pro se.

Ashley Moody, Attorney General,
Tallahassee, and Rebecca Rock
McGuigan, Assistant Attorney General,
Daytona Beach, for Appellee.

PER CURIAM.

Roosevelt Bradley, II, appeals the postconviction court's summary denial of his Florida Rule of Criminal Procedure 3.850 motion for postconviction relief. His sole argument on appeal is that the court denied his motion as successive, but, in doing so, failed to comply with the requirements of subdivision (h)(2) of rule 3.850 because no records were attached to the order. Bradley is correct.

Rule 3.850(h)(2) provides:

A second or successive motion is an extraordinary pleading. Accordingly, a court may dismiss a second or successive motion if the court finds that it fails to allege new or different grounds for relief and the prior determination was on the merits or, if new and different grounds are alleged, the judge finds that the failure of the defendant or the attorney to assert those grounds in a prior motion constituted an abuse of the procedure or there was no good cause for the failure of the defendant or defendant's counsel to have asserted those grounds in a prior motion. When a motion is dismissed under this subdivision, a copy of that portion of the files and records necessary to support the court's ruling shall accompany the order denying the motion.

In its order, the court found that the sole claim raised by Bradley in his motion was "barred as successive" because it was substantially similar to one unsuccessfully raised by him in a prior motion. However, despite the order stating that certain portions of the court record that support the ruling were attached, no such records were attached.

Accordingly, we reverse the order under review and remand for the postconviction court to attach to its order a copy of that portion of the files and records necessary to support its ruling that Bradley's motion is successive.

REVERSED and REMANDED with directions.

ORFINGER, LAMBERT, and GROSSHANS, JJ., concur.