

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2003

JOHN CHRISTOPHER STABILE,

Appellant,

v.

CASE NO. 5D02-3901

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed December 5, 2003

3.850 Appeal from the Circuit
Court for Volusia County,
R. Michael Hutcheson, Judge.

John Christopher Stabile, Raiford, Pro se.

No Appearance for Appellee.

PER CURIAM.

Appellant challenges the lower court's order denying his motion for post-conviction relief made pursuant to Rule 3.850, Florida Rules of Criminal Procedure. We affirm the order without comment on all issues except one -- whether the trial court erred in summarily denying ground three of Appellant's motion. On this issue, we reverse and remand with instructions that a hearing be conducted or that the trial court attach to any summary order denying relief those portions of the record that conclusively refute the claim. *Oliver v. State*, 691 So. 2d 1126 (Fla. 1st DCA 1996).

AFFIRMED in part; REVERSED in part; REMANDED.

SHARP, W., GRIFFIN and TORPY, JJ., concur.