

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

JULY TERM 2006

GARY KNAUFF,

Appellant,

v.

CASE NO. 5D06-2407

STATE OF FLORIDA,

Appellee.

Opinion filed November 17, 2006

3.850 Appeal from the Circuit
Court for Orange County,
Bob Wattles, Judge.

Gary T. Knauff, Bushnell, pro se.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Bonnie Jean Parrish,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Gary Knauff appeals the summary denial of his Florida Rule of Criminal Procedure 3.850 motion for postconviction relief. Knauff raised several claims in his motion, only one of which has merit.

Included in Knauff's second claim is an allegation that Knauff's plea was involuntary and coerced by threats of trial counsel, shortly before trial, that if Knauff did not accept the State's plea offer, counsel would abandon him. These allegations present a facially sufficient claim. See *Jackson v. State*, 801 So. 2d 1024 (Fla. 5th DCA 2001); *Siegel v. State*, 586 So. 2d 1341 (Fla. 5th DCA 1991). Because the trial

court summarily denied this claim without attaching portions of the record that refute it,¹ we reverse with respect to this issue only. On remand, the trial court must either attach portions of the record that conclusively refute this claim or hold an evidentiary hearing.

AFFIRMED IN PART; REVERSED IN PART; and REMANDED with instructions.

PALMER, MONACO and LAWSON, JJ., concur.

¹ The trial court's order did include, as an attachment, a transcript of the plea hearing. However, the judge who accepted the plea failed to make any inquiry of Knauff to assure that his plea was voluntary and not coerced, as expressly required under Florida law. See Fla. R. Crim. P. 3.170(k), 3.172. The plea in this case was taken by a different judge than the one who considered Knauff's 3.850 motion.