

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

JANUARY TERM 2006

BRUCE ARMBRUSTER,

Appellant,

v.

Case No. 5D06-370

STATE OF FLORIDA,

Appellee.

Opinion filed June 9, 2006

3.850 Appeal from the Circuit
Court for Volusia County,
Julianne Piggotte, Judge.

Bruce Armbruster, Sneads, pro se.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Timothy D. Wilson, Assistant
Attorney General, Daytona Beach, for Appellee.

PER CURIAM.

Bruce Armbruster (defendant) appeals the trial court's order denying his rule 3.850 motion for postconviction relief.¹ Commendably, the State concedes that the trial court erred by denying the defendant's motion to amend (which was filed before a ruling on the motion was entered) and his motion for voluntary dismissal of his original rule 3.850 motion. Accordingly, we reverse the trial court's order and remand with instructions to dismiss the defendant's initial rule 3.850 motion, without prejudice to defendant filing a timely amended motion.

REVERSED and REMANDED.

THOMPSON, SAWAYA and PALMER, JJ., concur.

¹See Fla. R. Crim. P. 3.850.