

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

JULY TERM 2011

OTIS FINCH, JR.,

Appellant,

v.

Case No. 5D11-2140

STATE OF FLORIDA,

Appellee.

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Opinion filed November 18, 2011

3.850 Appeal from the Circuit Court
for Putnam County,
Terry Larue, Judge.

Otis Finch, Jr., Graceville, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Anthony J. Golden,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Appellant challenges the summary denial of his Florida Rule of Criminal Procedure 3.850 motion based on timeliness. We reverse. Appellant's allegation that he placed his motion in the hands of prison officials on November 19, 2010, is not refuted in the record. The fact that prison officials did not mail it until three days later is immaterial. Accordingly, we remand this cause to the trial court to consider the motion on the merits.

REVERSED AND REMANDED.

PALMER, TORPY and JACOBUS, JJ., concur.