

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

JAMES W. MOSLEY,

Appellant,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

v.

CASE NO. 1D03-2834

STATE OF FLORIDA,

Appellee.

Opinion filed December 10, 2004.

An appeal from the Circuit Court for Wakulla County.
Kathleen F. Dekker, Judge.

James W. Mosley, pro se.

Charles J. Crist, Jr., Attorney General, Tallahassee, for Appellee.

PER CURIAM.

The appellant appeals the summary denial of his postconviction motion filed pursuant to Florida Rule of Criminal Procedure 3.850. Because the appellant raises

a facially sufficient claim that was not conclusively refuted by record attachments, we reverse in part, affirm in part, and remand.

The appellant contends that his mental condition and use of psychotropic medications rendered his plea involuntary as he was unable to understand the nature and consequences of the proceedings. Such a claim is facially sufficient and cognizable in a rule 3.850 motion. See Long v. State, 678 So. 2d 925, 926-27 (Fla. 1st DCA 1996). The plea colloquy conducted by the trial court did not address whether Appellant's mental condition and use of psychotropic medications affected the voluntariness of his plea, cf. Kirby v. State, 733 So. 2d 1054 (Fla. 1st DCA 1999); nor did the testimony of the psychologists who testified during the sentencing phase of the proceedings. Therefore, we reverse and remand for the attachment of portions of the record conclusively refuting this claim, or for an evidentiary hearing. We otherwise affirm the trial court's order.

REVERSED IN PART, AFFIRMED IN PART, and REMANDED.

ALLEN, DAVIS and BENTON, JJ., CONCUR.