

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

KEVIN LEVONNE TERRY,
Appellant,

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

v.

CASE NO. 1D04-1436

STATE OF FLORIDA,
Appellee.

Opinion filed March 8, 2005.

An appeal from the Circuit Court for Alachua County.
Peter K. Sieg, Judge.

Kevin Levonne Terry, pro se.

Charles J. Crist, Jr., Attorney General; Philip W. Edwards, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

The appellant appeals the denial of his rule 3.850 motion following an
evidentiary hearing. As his third and fourth grounds for relief, the appellant asserted

ineffective assistance of counsel claims for trial counsel's failure to preserve certain issues for appellate review. The trial court denied the claims on the basis that the claims were not cognizable in a rule 3.850 motion because they could have been raised on direct appeal. The appellant contends that the trial court erred in denying the claims on that basis. We agree.

Ineffective assistance of counsel claims, including those alleging that counsel failed to properly preserve an issue for appellate review, are cognizable in a rule 3.850 motion, as they generally cannot be raised for the first time on direct appeal. See Johnson v. State, 888 So. 2d 122, 125 (Fla. 4th DCA 2004); Chambers v. State, 530 So. 2d 452, 453 (Fla. 1st DCA 1988). Therefore, we reverse the trial court's denial of grounds three and four and remand for the trial court to rule on the merits of these claims. We otherwise affirm the trial court's order.

AFFIRMED IN PART, REVERSED IN PART, and REMANDED.

WOLF, C.J., DAVIS and BROWNING, JJ., CONCUR.