

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

ROBERT K. REED,

Appellant,

v.

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

CASE NO. 1D12-5738

STATE OF FLORIDA,

Appellee.

Opinion filed May 17, 2013.

An appeal from the Circuit Court for Columbia County.

E. Vernon Douglas, Judge.

Robert K. Reed, pro se, Appellant.

Pamela Jo Bondi, Attorney General, and Heather Flanagan Ross, Assistant
Attorney General, Tallahassee, for Appellee.

PER CURIAM.

Robert K. Reed appeals the summary denial of his motion seeking
postconviction relief brought pursuant to Florida Rule of Criminal Procedure

3.850. We affirm, without comment, the postconviction court's denial of claims one, three, four, five, and six. However, as to the second claim, we reverse.

In the instant postconviction motion, the appellant argued in his second claim for relief that his attorney provided ineffective assistance in failing to call a witness who could have testified in support of his claim of self-defense. The appellant set forth a facially sufficient claim pursuant to Nelson v. State, 875 So. 2d 579, 583 (Fla. 2004), and as the state concedes on appeal, the trial court's order does not contain any record attachments that conclusively refute the appellant's entitlement to relief.

Accordingly, we reverse and remand the trial court's order denying the appellant's second claim for the attachment of portions of the record conclusively refuting the claim or to hold an evidentiary hearing.

AFFIRMED IN PART; REVERSED IN PART, AND REMANDED.

PADOVANO, WETHERELL, and SWANSON, JJ., CONCUR.