

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

CHARLES KELLY,

Appellant,

v.

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

CASE NO. 1D16-3020

STATE OF FLORIDA,

Appellee.

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Opinion filed March 10, 2017.

An appeal from an order of the Circuit Court for Duval County.  
Russell L. Healey, Judge.

Charles Kelly, pro se, Appellant.

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

PER CURIAM.

Appellant, Charles Kelly, appeals the trial court's summary denial of his  
motion for postconviction relief brought pursuant to Florida Rule of Criminal

Procedure 3.850. We affirm without comment the denial of claims one through three that were raised in the section of his motion entitled “Arguments.” However, appellant also raised seven claims of ineffective assistance of counsel in a preceding section entitled “Supporting Facts.” The trial court’s order failed to address these claims. Appellant filed a motion for rehearing in which he made it clear that the items in his “Supporting Facts” section were, in fact, separate claims for relief. The trial court denied rehearing, did not address the additional claims, and did not allow appellant to amend his motion. We, therefore, reverse as to the ineffective assistance of counsel claims contained in the “Supporting Facts” section and remand for the trial court to consider them. See Purse v. State, 185 So. 3d 627, 627 (Fla. 5th DCA 2016) (citing Gonzalez v. State, 829 So. 2d 323, 324 (Fla. 2d DCA 2002)); Bridges v. State, 81 So. 3d 616, 618 (Fla. 5th DCA 2012). If the trial court determines that these claims are facially insufficient, appellant should be given an opportunity to amend them pursuant to Spera v. State, 971 So. 2d 754 (Fla. 2000).

AFFIRMED in part, REVERSED in part, and REMANDED with instructions.

WOLF, LEWIS, and WETHERELL, JJ., CONCUR.