

FIRST DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

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No. 1D18-3289

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DAVID PEMBELTON JR,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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On appeal from the Circuit Court for Baker County.  
Mark W. Moseley, Judge.

August 5, 2019

PER CURIAM.

David Pembelton appeals an order summarily denying his motion for postconviction relief in which he asserted four claims of ineffective assistance of counsel. We affirm the trial court's summary denial of claims one, three, and four without discussion. However, in Pembelton's second claim he alleged that his defense counsel was ineffective for failing to investigate and failing to inform him that he could have filed a motion to suppress the warrantless entry into his home. His assertions, taken as true, establish a facially sufficient claim under *Strickland v. Washington*, 466 U.S. 668, 678 (1984). *See Fry v. State*, 217 So. 3d 1139, 1140 (Fla. 1st DCA 2017) ("A trial attorney's failure to investigate a factual defense or a defense relying on the suppression of evidence, which results in the entry of an ill-advised

plea of guilty, has long been held to constitute a facially sufficient attack upon the conviction.” (quotations omitted)). We reverse and remand for an evidentiary hearing on this claim.

AFFIRMED in part, REVERSED in part, and REMANDED.

LEWIS, ROWE, and MAKAR, JJ., concur.

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*Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.*

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David Pembelton Jr, pro se, Appellant.

Ashley Moody, Attorney General, Tallahassee, for Appellee.