

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**PHILLIP MITCHELL,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D14-4164

[May 20, 2015]

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit; Paul L. Backman, Judge; L.T. Case Nos. 11-020167 CF10A and 11-020886 CF10A.

Phillip Mitchell, South Bay, pro se.

Pamela Jo Bondi, Attorney General, Tallahassee, and Matthew Steven Ocksrider, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

The defendant appeals from the circuit court's summary denial of his Florida Rule of Criminal Procedure 3.850 motion. We reverse and remand to allow the defendant an opportunity to amend one claim pursuant to *Spera v. State*, 971 So. 2d 754 (Fla. 2007), and *Alcorn v. State*, 121 So. 3d 419 (Fla. 2013). Counsel may be ineffective for failing to advise a defendant about the maximum possible penalty when conveying a plea offer. *Alcorn*, 121 So. 3d at 426; *George v. State*, 132 So. 3d 366 (Fla. 4th DCA 2014). While the defendant alleges that counsel failed to advise him of potential habitual offender sentencing before he rejected a favorable plea, his motion did not comport with *Alcorn's* requirements. Accordingly, we reverse and remand for the trial court to allow the defendant the opportunity and a reasonable amount of time to correct the pleading deficiency associated with that claim if he can do so in good faith. We affirm the summary denial of appellant's other claim.

*Affirmed in part, reversed in part, and remanded with directions.*

MAY, GERBER and LEVINE, JJ., concur.

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***Not final until disposition of timely filed motion for rehearing.***