

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT

**KRISTINA M. LAWHON-GRIFFIS,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D16-3261

[July 19, 2017]

Appeal of order denying rule 3.850 motion from the Circuit Court for the Nineteenth Judicial Circuit, Okeechobee County; Dan L. Vaughn, Judge; L.T. Case No. 472005CF000707A.

Kristina M. Lawhon-Griffis, Quincy, pro se.

Pamela Jo Bondi, Attorney General, Tallahassee, and Heidi L. Bettendorf, Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Kristina Lawhon-Griffis appeals the summary denial of her Florida Rule of Criminal Procedure 3.850 motion for postconviction relief. We conclude that the trial court erred in denying the motion as successive because appellant's previous Florida Rule of Criminal Procedure 3.170 motion to withdraw her plea, which was untimely, should have been dismissed without prejudice to filing a proper rule 3.850 motion. *See Watson v. State*, 111 So. 3d 205 (Fla. 4th DCA 2013). We therefore reverse and remand for the trial court to consider appellant's second motion on the merits.

*Reversed and remanded.*

WARNER, GROSS and LEVINE, JJ., concur.

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