

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2006

ELNORA GATTO,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D05-3736

[December 6, 2006]

PER CURIAM.

Elnora Gatto appeals from the denial of her motion for post conviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. We find possible merit in the first ground for relief. Facially sufficient is Gatto's claim that her trial counsel was ineffective for advising her to plead guilty to burglary when she would have had a complete defense to the charge under *Delgado v. State*, 776 So.2d 233 (Fla. 2000). We reverse and remand for an evidentiary hearing on this claim only.

WARNER, FARMER and KLEIN, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Alfred J. Horowitz, Judge; L.T. Case No. 00-11844 CF10A.

Edward De R. Cayia, Fort Lauderdale, for appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Diane F. Medley, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.