

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2011

LENSKY MATTHEW JEAN-BART,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D09-4306

[March 16, 2011]

PER CURIAM.

We affirm the trial court's summary denial of appellant's post-conviction motion in all respects but two. We reverse and remand for an evidentiary hearing regarding the following: Claim 2 – Appellant's claim that his trial counsel was ineffective in failing to investigate the injuries allegedly suffered by Officer Guelli during the altercation that led to the charges in this case; and Claim 4 – Appellant's claim that his trial counsel was ineffective in failing to investigate and secure the alleged video of the incident. Appellant has the burden of proving his claims at the hearing. *Pennington v. State*, 34 So. 3d 151, 154 (Fla. 1st DCA 2010).

POLEN, TAYLOR and HAZOURI, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; John S. Kastrenakes, Judge; L.T. Case No. 502003CF001519AXXMB.

Lensky Matthew Jean-Bart, Punta Gorda, pro se.

Pamela Jo Bondi, Attorney General, Tallahassee, and Joseph A. Tringali, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.