

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2009

WALTER C. MALLARD,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D09-843

[October 7, 2009]

PER CURIAM.

The defendant appeals the summary denial of his motion for post-conviction relief, which alleged several grounds. We agree with the defendant that he alleged a legally sufficient ground for post-conviction relief by contending that his trial counsel should not have coerced him into waiving his right to a speedy trial after the speedy trial time had elapsed. *See Hamilton v. State*, 979 So. 2d 420 (Fla. 2008). While this may have been a strategic decision, that is not obviously the case from the current record.

We thus reverse as to this ground and remand for the trial court to either conduct an evidentiary hearing or provide attachments conclusively refuting the claim. We find that the other grounds alleged in the motion for post-conviction relief were properly denied as legally inadequate or conclusively refuted by the record.

Affirmed in part, reversed in part, and remanded.

GROSS, C.J., STEVENSON and CIKLIN, JJ., concur.

* * *

Appeal of order denying rule 3.850 motion from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Jeffrey J. Colbath, Judge; L.T. Case No. 2006CF005696AXX.

Walter C. Mallard, Belle Glade, pro se.

No brief filed for appellee.

Not final until disposition of timely filed motion for rehearing.