

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

ANTHONY HOLLEY,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D10-3475

[August 24, 2011]

PER CURIAM.

The trial court's order summarily denying appellant's motion for post-conviction relief is summarily reversed. It is well-settled that when a trial court summarily denies a rule 3.850 motion without an evidentiary hearing, it must "either state its rationale in its decision or attach those specific parts of the record that refute each claim presented in the motion." *Anderson v. State*, 627 So. 2d 1170, 1171 (Fla. 1993) (citing *Hoffman v. State*, 571 So. 2d 449, 450 (Fla. 1990)). See also *Walkes v. State*, 9 So. 3d 774 (Fla. 4th DCA 2009); *Terry v. State*, 970 So. 2d 863 (Fla. 4th DCA 2007); *Smith v. State*, 956 So. 2d 1266 (Fla. 4th DCA 2007). The trial court's order in this case did neither. We therefore summarily reverse and remand for the attachment of portions of the record which conclusively refute appellant's claims, an evidentiary hearing, or a statement of the trial court's rationale for its decision on the multiple claims for post-conviction relief raised in this 92-page motion, excluding exhibits and other attachments. Of course, the trial court may order a response from the state before ruling on the claims, if necessary.

Reversed and remanded for further proceedings.

MAY, C.J., GROSS and TAYLOR, JJ., concur.

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Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Geoffrey D. Cohen,

Judge; L.T. Case Nos. 03-8320 CF10A and 03-9707 CF10A.

Anthony Holley, Okeechobee, pro se.

No appearance required for appellee.

Not final until disposition of timely filed motion for rehearing.