

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

| | | |
|--------------------|---|--------------------|
| REYNALDO MILLETTE, |) | |
| |) | |
| Appellant, |) | |
| |) | |
| v. |) | Case No. 2D14-5678 |
| |) | |
| STATE OF FLORIDA, |) | |
| |) | |
| Appellee. |) | |
| _____ |) | |

Opinion filed October 30, 2015.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Sarasota County; Donna Padar Berlin,
Judge.

Reynaldo Millette, pro se.

PER CURIAM.

Reynaldo Millette appeals the postconviction court's order dismissing as untimely his motion filed under Florida Rule of Criminal Procedure 3.850. Because the court improperly dismissed Millette's second amended motion filed on May 23, 2013, we reverse and remand for the court to reconsider Millette's claims—none of which were determined on the merits or refuted by the record. See Millette v. State, 148 So. 3d 538 (Fla. 2d DCA 2014); see also Rosier v. State, 144 So. 3d 604, 605 (Fla. 2d DCA 2014)

(explaining that a timely filed rule 3.850 motion may be amended prior to the postconviction court's disposition even after the two-year time period for filing a timely motion under the rule has expired).

Reversed and remanded.

NORTHCUTT, MORRIS, and LUCAS, JJ., Concur.