

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

RAMON GALARZA,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

CASE NO. 2D01-5200

Opinion filed January 18, 2002.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court
for Lee County;
Thomas S. Reese, Judge.

COVINGTON, Judge.

Ramon Galarza timely appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. Galarza claims that his sentencing guidelines scoresheet contained a conviction that should not have been scored because it was more than ten years old. See § 921.0011(5), Fla. Stat. (1997). Galarza says that he informed his trial counsel of the

error, and trial counsel was ineffective for failing to object to the use of the prior conviction. We reverse and remand.

Galarza originally raised the issue of the scoresheet error in a motion to correct illegal sentence filed pursuant to rule 3.800(a). This court affirmed the summary denial of that motion without prejudice to any right Galarza might have to file a motion pursuant to rule 3.850. Galarza v. State, 792 So. 2d 600 (Fla. 2d DCA 2001). Galarza then filed the instant rule 3.850 motion, but the trial court converted the motion to a rule 3.800(b)(2) motion and denied it.

Galarza has made a facially sufficient claim that his trial counsel was ineffective. We reverse and remand for the trial court to address this claim. The trial court must attach documents that conclusively refute the claim if the trial court again summarily denies it.

Reversed and remanded.

FULMER and SILBERMAN, JJ., Concur.