

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

WILLIAM HARVEY,)	
)	
Appellant,)	
)	
v.)	Case No. 2D05-5165
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
)	
_____)	

Opinion filed April 5, 2006.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Pinellas County; W. Douglas Baird,
Judge.

STRINGER, Judge.

William Harvey appeals the summary denial of his motion for DNA evidence examination filed pursuant to Florida Rule of Criminal Procedure 3.853. We affirm the postconviction court's denial of the motion because it is facially insufficient. Our affirmance is without prejudice to any right Harvey might have to file a timely, facially sufficient rule 3.853 motion. See Scarborough v. State, 906 So. 2d 379 (Fla. 2d DCA 2005).

Affirmed.

KELLY and WALLACE, JJ., Concur.