

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JONATHAN DANIELS,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
)
 _____)

Case No. 2D05-5937

Opinion filed April 21, 2006.

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

DAVIS, Judge.

Jonathan Daniels appeals the postconviction court's denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The postconviction court summarily denied the motion, finding that claims one through three were addressed and denied in a prior order, that Daniels failed to correct the facial insufficiency of claim four, and that his newly asserted claims were successive. We affirm the postconviction court's findings insofar as they relate to claims one through three and the newly alleged claims.

However, we conclude Daniels cured the facial insufficiency of the ineffective assistance allegation contained in claim four. See Cordes v. State, 842 So. 2d 874, 875 (Fla. 2d DCA 2003). Because the postconviction court did not refute this claim, we reverse and remand for the postconviction court to either attach records that conclusively refute Daniels's claim or conduct an evidentiary hearing.

Affirmed in part, reversed in part, and remanded.

ALTENBERND and WHATLEY, JJ., Concur.