

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

LEROY JOHNSON, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF FLORIDA, )  
 )  
 Appellee. )  
 \_\_\_\_\_ )

CASE NO. 2D01-2378

Opinion filed October 31, 2001.

Appeal pursuant to Fla. R. App. P.  
9.141(b)(2) from the Circuit Court  
for Lee County;  
William J. Nelson, Judge.

WHATLEY, Acting Chief Judge.

Leroy Johnson appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. Johnson alleges that counsel was ineffective in multiple ways. We affirm without comment the denial of all of Johnson's claims except one which we reverse for an evidentiary hearing. Johnson alleges that counsel erred in failing to call three alibi witnesses that would have testified that he was with them in Tampa at the time of the crime which occurred in Fort Myers.

Johnson has included sufficient facts to make a facially sufficient claim, see, e.g., Barnes v. State, 757 So. 2d 1217 (Fla. 4th DCA 2000), which is not conclusively refuted by the record attachments. We therefore reverse and remand for an evidentiary hearing as to this claim only.

Affirmed in part, reversed in part, and remanded for an evidentiary hearing.

GREEN and DAVIS, JJ., Concur.