

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

KENNETH L. WILLIAMS,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D04-743

Opinion filed July 14, 2004.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Polk County; Dennis P. Maloney,
Judge.

WALLACE, Judge.

Kenneth L. Williams seeks review of the trial court's order summarily denying his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. Williams' motion was based in part on a claim of newly discovered evidence that was facially insufficient. Therefore, we affirm the order of the trial court without prejudice to Williams' right to file a facially sufficient claim based on newly

discovered evidence. We affirm without comment the trial court's summary denial of Williams' other claims.

Affirmed without prejudice to Williams' right to refile a facially sufficient claim based on newly discovered evidence within sixty days of the issuance of the mandate in this case.

FULMER and STRINGER, JJ., Concur.