

# **Third District Court of Appeal**

## **State of Florida**

Opinion filed December 28, 2016.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D16-897  
Lower Tribunal No. 09-32799

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**Andy Rodriguez,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Jose L. Fernandez, Judge.

Andy Rodriguez, in proper person.

Pamela Jo Bondi, Attorney General, and Linda S. Katz, Assistant Attorney General, for appellee.

Before SHEPHERD, LAGOA and EMAS, JJ.

SHEPHERD, J.

Andy Rodriguez appeals the summary denial of his motion for post-conviction relief pursuant to Florida Rule of Criminal Procedure 3.850. In his motion, Rodriguez raised nine claims. We affirm the denial of the motion as to claims two through eight without further discussion. We ordered the State to respond to claims one and nine. As to these claims, which the State contends are refuted by the record, we reverse and remand for attachment of those portions of the record which conclusively refute Rodriguez's claims of ineffective assistance of trial counsel for failing to move to suppress defendant's incriminating statements and for failing to object to the trial court giving a defective self-defense jury instruction. Fla. R. App. P. 9.141(b)(2)(A),(D).

Affirmed in part, reversed in part, and remanded.