# Third District Court of Appeal

**State of Florida**

Opinion filed December 4, 2019.
Not final until disposition of timely filed motion for rehearing.

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No. 3D19-0363
Lower Tribunal No. 10-19926

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**Eric Laverne McDade,**
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, Spencer J. Multack, Judge.

Eric Laverne McDade, in proper person.

Ashley Moody, Attorney General, and Magaly Rodriguez, Assistant Attorney General, for appellee.

Before EMAS, C.J., and SCALES, and LINDSEY, JJ.

PER CURIAM.

Eric Laverne McDade appeals the summary denial of his six-claim motion for postconviction relief, filed pursuant to Florida Rule of Criminal Procedure 3.850. We affirm, without further discussion, the trial court's order with respect to five of the six claims. The remaining claim concerns McDade's allegation that trial counsel was ineffective by affirmatively misadvising him that if he were to testify, the State would be allowed to cross-examine him regarding the nature and details of his prior felony conviction.[1] The State concedes, and we agree, that this claim is legally sufficient and not conclusively refuted by the attachments to the order summarily denying McDade's Rule 3.850 motion. See Fla. R. Crim. P. 3.850(f)(5) ("If the denial is based on the records in the case, a copy of that portion of the files and records that conclusively shows that the defendant is entitled to no relief shall be attached to the final order.").

We therefore reverse and remand for the trial court to either conduct an evidentiary hearing on this single claim, or, if the trial court again summarily denies

[1] McDade could be impeached by evidence that he was previously convicted of a felony, but the jury is generally entitled to know only the number—and not the precise nature or details—of those prior convictions. See, e.g., Fotopoulos v. State, 608 So. 2d 784, 791 (Fla. 1992); Bell v. State, 901 So. 2d 180 (Fla. 3d DCA 2005). We note, however, had McDade taken the stand and tried to mislead the jury or even minimize his prior convictions, the State would have been able to inquire further regarding the convictions. See Fotopoulos, 608 So. 2d at 791; Ross v. State, 913 So.2d 1184, 1187 (Fla. 4th DCA 2005); Miller v. State, 804 So. 2d 609, 611-12 (Fla. 3d DCA 2002).

this claim, to attach to the order those portions of the record that conclusively demonstrate McDade is not entitled to relief. See Fla. R. App. P. 9.141(b)(2)(D) ("On appeal from the [summary] denial of relief, unless the record shows conclusively that the appellant is entitled to no relief, the order shall be reversed and the cause remanded for an evidentiary hearing or other appropriate relief.").