

# **Third District Court of Appeal**

**State of Florida**

Opinion filed August 25, 2021.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D21-0957  
Lower Tribunal No. F15-3890

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**Yilian Quintana Ramirez,**  
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, Mavel Ruiz, Judge.

Yilian Quintana Ramirez, in proper person.

Ashley Moody, Attorney General, and Asad Ali, Assistant Attorney General, for appellee.

Before HENDON, MILLER, and BOKOR JJ.

PER CURIAM.

After his convictions and sentences were affirmed on direct appeal, appellant, Yilian Quintana Ramirez, filed a motion for postconviction relief alleging ineffective assistance of counsel. See Ramirez v. State, 289 So. 3d 474 (Fla. 3d DCA 2019); Fla. R. Crim. P. 3.850. Citing facial insufficiency, the trial court denied the motion by way of a final order. Upon the State's proper and commendable partial confession of error, along with our own independent review of the record, we conclude "the procedure outlined in Spera v. State, 971 So. 2d 754 (Fla. 2007) when determining that an initial motion for post-conviction relief is legally insufficient" should have been followed, and the summary denial of the motion, without permitting amendment, constituted an abuse of discretion. Juarez v. State, 215 So. 3d 89, 90 (Fla. 3d DCA 2016); see also Fla. R. Crim. P. 3.850(f)(2) ("If the motion is insufficient on its face, and the motion is timely filed under this rule, the court shall enter a nonfinal, nonappealable order allowing the defendant [sixty] days to amend the motion."); Spera, 971 So. 2d at 761 ("[W]hen a defendant's initial rule 3.850 motion for postconviction relief is determined to be legally insufficient for failure to meet either the rule's or other pleading requirements, the trial court abuses its discretion when it fails to allow the defendant at least one opportunity to amend the motion."). Thus, we reverse and remand for further proceedings consistent herewith.

Reversed and remanded.