

# Third District Court of Appeal

State of Florida, July Term, A.D. 2007

Opinion filed October 17, 2007.

Not final until disposition of timely filed motion for rehearing.

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No. 3D07-2129

Lower Tribunal No. 02-27083

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**Montae Benn,**

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, Cristina Pereyra-Shuminer, Judge.

Montae Benn, in proper person.

Bill McCollum, Attorney General, for appellee.

Before GERSTEN, C.J., and SHEPHERD and SUAREZ, JJ.

PER CURIAM.

This is an appeal of an order summarily denying a motion under Florida Rule of Criminal Procedure 3.800(a). On appeal from a summary denial, this

Court must reverse unless the postconviction record, see Fla. R. App. P. 9.141(b)(2)(A), shows conclusively that the appellant is entitled to no relief. See Fla. R. App. P. 9.141(b)(2)(D).

Because the record now before us fails to make the required showing, we reverse the order and remand for further proceedings or for the attachment of record excerpts conclusively showing that the appellant is not entitled to any relief.

Reversed and remanded for further proceedings.