

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D. 2001

MADUABUCHUKU IROH,  
Appellant,

\*\*

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vs.

\*\*

CASE NO. 3D00-3613

THE STATE OF FLORIDA,  
Appellee.

\*\*

LOWER

TRIBUNAL NO. 98-13771

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Opinion filed July 18, 2001.

An appeal under Fla. R. App. P. 9.141(b)(2) from the Circuit  
Court for Dade County, Peter R. Lopez, Judge.

Maduabuchuku Iroh, in proper person.

Robert A. Butterworth, Attorney General, and Thomas C. Mielke,  
Assistant Attorney General, for appellee.

Before JORGENSON, COPE and GREEN, JJ.

PER CURIAM.

Maduabuchuku Iroh appeals an order denying his motion for  
postconviction relief under Florida Rule of Criminal Procedure  
3.850. As the record does not conclusively refute appellant's  
sworn claim that his counsel was ineffective for misadvising him

that duress was not a defense in his case, we remand for an evidentiary hearing. Fla. R. App. P. 9.141(b)(2)(D); see State v. Nieto, 761 So. 2d 467 (Fla. 3d DCA 2000); Fla. Stat. Jury Instr. (Crim.) 3.04(i). We express no opinion on the ultimate merits but conclude that appellant's sworn allegations are sufficient to call for an evidentiary hearing.

Reversed and remanded for further proceedings consistent herewith.