

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, A.D. 2003

DARIUS L. THOMAS,	**	
Appellant,	**	
vs.	**	CASE NO. 3D03-103
THE STATE OF FLORIDA,	**	LOWER
Appellee.	**	TRIBUNAL NO. 99-7888

Opinion filed May 14, 2003.

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

Darius L. Thomas, in proper person.

Charles J. Crist, Jr., Attorney General, and Roberta G. Mandel, Assistant Attorney General, for appellee.

Before LEVY, FLETCHER and SHEVIN, JJ.

PER CURIAM.

The state properly concedes that the order denying post-conviction relief should be reversed and remanded. The trial court summarily denied the motion, and failed to attach any

portion of the record to support its ruling. Thus, the record does not conclusively refute defendant's facially viable claims. Wilcox v. State, 622 So. 2d 132 (Fla. 3d DCA 1993); Jones v. State, 693 So. 2d 1154 (Fla. 3d DCA 1997).

Reversed and remanded with directions.