

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, 2004

PABLO GOMEZ,

**

Appellant,

**

vs.

** CASE NO. 3D03-2681

THE STATE OF FLORIDA,

**

LOWER
TRIBUNAL NO. 97-39198

Appellee.

**

Opinion filed May 12, 2004.

An Appeal from the Circuit Court for Miami-Dade County, Henry
Leyte-Vidal, Judge.

Charles G. White, for appellant.

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

Before GODERICH, FLETCHER, and RAMIREZ, JJ.

PER CURIAM.

The defendant, Pablo Gomez, appeals from the denial of his
motion for post-conviction relief filed pursuant to Florida Rule of
Criminal Procedure 3.850. We affirm.

At the evidentiary hearing, the defendant argued that he turned down the State's plea offer as a result of trial counsel's ineffective assistance. A review of the transcript of the evidentiary hearing shows that the defendant failed to satisfy the test for establishing a claim for ineffective assistance of counsel. See Strickland v. Washington, 466 U.S. 668, 688 (1984) ("In any case presenting an ineffectiveness claim, the performance inquiry must be whether counsel's assistance was reasonable considering all the circumstances."); Hoffman v. State, 827 So. 2d 1046, 1048-49 (Fla. 5th DCA 2002) (holding that in claim by defendant that counsel's ineffective assistance caused him to turn down State's plea offer, "defendant must prove 1) that his counsel failed to communicate or misinformed him about a plea offer, 2) that he would have accepted the plea offer had he been correctly advised, and 3) that his acceptance of the plea offer would have resulted in a lesser sentence"). As such, the trial court's order denying the 3.850 motion is affirmed.

Affirmed.