

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. 2004

TRABON MARION,

\*\*

Appellant,

\*\*

vs.

\*\* CASE NO. 3D04-1553

THE STATE OF FLORIDA,

\*\*

Appellee.

\*\* LOWER  
TRIBUNAL NO. 02-23699  
\*\*

Opinion filed December 29, 2004.

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

Trabon Marion, in proper person.

Charles J. Crist, Jr., Attorney General, and Erin Kinney, Assistant Attorney General, for appellee.

Before COPE, WELLS and SHEPHERD, JJ.

PER CURIAM.

Trabon Marion appeals an order denying his motion for postconviction relief under Florida Rule of Criminal Procedure 3.850. The trial court denied relief, and checked the box on

the form order indicating that the denial occurred after an evidentiary hearing. The State reports, however, that there was no evidentiary hearing and this entry on the order is a clerical error. Accordingly, we treat the appeal as an appeal from an order summarily denying postconviction relief. See Fla. R. App. P. 9.141(b) (2).

Upon consideration of the record now before us and the file in defendant-appellant Marion's direct appeal, Marion v. State, No. 3D03-1557, we concur with the trial court that the defendant is not entitled to postconviction relief.

Affirmed.