

Third District Court of Appeal

State of Florida, July Term, A.D. 2012

Opinion filed December 5, 2012.
Not final until disposition of timely filed motion for rehearing.

No. 3D12-2578
Lower Tribunal Nos. 07-39080, 07-35096

Tommy Miller,
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, Rodney Smith, Judge.

Tommy Miller, in proper person.

Pamela Jo Bondi, Attorney General, and Brent J. Kelleher, Assistant Attorney General, for appellee.

Before SHEPHERD, CORTIÑAS and FERNANDEZ, JJ.

PER CURIAM.

This is an appeal of an order summarily denying a motion filed under Florida Rule of Criminal Procedure 3.800(a). On appeal from a summary denial, this Court must reverse unless the post-conviction 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. If the trial court again enters an order summarily denying the post-conviction motion, the court shall attach record excerpts conclusively showing that the appellant is not entitled to any relief.

Reversed and remanded for further proceedings.