

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

JAMES JEFFERSON,

**

Appellant,

**

vs.

**

CASE NO. 3D99-3175

THE STATE OF FLORIDA,

**

LOWER

Appellee.

**

TRIBUNAL NO. 96-11521

Opinion filed October 10, 2001.

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

James Jefferson, in proper person.

Robert A. Butterworth, Attorney General, and Linda S. Katz, Assistant Attorney General, for appellee.

Before COPE, GODERICH and SHEVIN, JJ.

PER CURIAM.

James Jefferson appeals an order denying his motion for postconviction relief. We reverse in part and remand for further proceedings solely on the claim that trial counsel was ineffective for failing to call Ms. Williams and the defendant as witnesses at

trial. Under the applicable standard of review, "[o]n appeal from the denial of relief, unless the record shows conclusively that the appellant is entitled to no relief, the order shall be reversed and the cause remanded for an evidentiary hearing or other appropriate relief." Fla. R. App. P. 9.141(2).

The limited record now before us does not conclusively refute the claim of defendant-appellant on this point. We therefore remand so that the trial court may identify those parts of the record which conclusively refute the defendant's claim, or alternatively, conduct an evidentiary hearing.

We affirm the order denying postconviction relief on the defendant's remaining claims.

Affirmed in part, reversed in part, and remanded for further proceedings consistent herewith.