

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2012

NATHANIEL A. STEPHENSON,

Appellant,

v.

Case No. 5D11-3825

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed February 10, 2012

3.850 Appeal from the
Circuit Court for Lake
County,
Lawrence Semento, Judge.

Nathaniel Stephenson, Miami, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Rebecca Roark Wall,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Appellant appeals the summary denial of his post-conviction motion filed pursuant to rule 3.850, Florida Rules of Criminal Procedure. Of the three claims he raised in his motion, we find that the denial of only one warrants reversal. In claim two, Appellant asserts that his trial counsel was ineffective for advising him not to testify at trial. Because the record does not adequately refute this legally sufficient claim, we reverse that part of the order summarily denying it and remand this case to the trial

court for an evidentiary hearing. See Ferrar v. State, 2 So. 3d 1111 (Fla. 4th DCA 2009). Otherwise, we affirm the order under review.

AFFIRMED in part; REVERSED in part; and REMANDED.

ORFINGER, C.J., SAWAYA and MONACO, JJ., concur.