

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

STEVEN S. TOLE,

Appellant,

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

v.

CASE NO. 1D06-3645

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed April 4, 2007.

An appeal from the Circuit Court for Columbia County.
Paul S. Bryan, Judge.

Steven S. Tole, pro se, Appellant.

Bill McCollum, Attorney General, and Charlie McCoy, Senior Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

The appellant challenges the trial court's summary denial of his postconviction motion filed pursuant to Florida Rule of Criminal Procedure 3.850. We affirm the appellant's first claim without further discussion. Because the appellant's second claim is facially sufficient, and because the trial court failed to attach portions of the record which conclusively refute the appellant's claim, we reverse and remand to the

trial court to attach portions of the record which conclusively refute the appellant's claim, to hold an evidentiary hearing, or to grant the relief requested. See State v. Leroux, 689 So. 2d 235 (Fla. 1996); Rackley v. State, 571 So. 2d 533, 535 (Fla. 1st DCA 1990).

REVERSED AND REMANDED.

BARFIELD, KAHN, and PADOVANO, JJ., CONCUR.