

Third District Court of Appeal

State of Florida, July Term, A.D. 2009

Opinion filed August 19, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D07-3056
Lower Tribunal No. 00-9224

Jason Timothy Clarke,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Jorge J. Perez,
Judge.

Paul Morris, for appellant.

Bill McCollum, Attorney General, and Natalia Costea, Assistant Attorney
General, for appellee.

Before COPE and SALTER, JJ., and SCHWARTZ, Senior Judge.

PER CURIAM.

This is an appeal from the denial, after an evidentiary hearing, of a Florida
Rule of Criminal Procedure 3.850 motion claiming ineffective assistance of

counsel in the trial resulting in the judgment affirmed in *Clarke v. State*, 838 So. 2d 1163 (Fla. 3d DCA 2003) (table). While the issue of whether counsel's representation fell below the required standard may present at least an arguable position, we find that the post-conviction court did not err in concluding that the second prong of the Strickland standard, cognizable prejudice, had not been satisfied. See *Strickland v. Washington*, 466 U.S. 668 (1984); *Maxwell v. Wainwright*, 490 So. 2d 927 (Fla. 1986); *Ridel v. State*, 990 So. 2d 581 (Fla. 3d DCA 2008); *Giralt v. State*, 935 So. 2d 599 (Fla. 3d DCA 2006).

Affirmed.