

Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed November 12, 2008.
Not final until disposition of timely filed motion for rehearing.

No. 3D08-506
Lower Tribunal No. 07-4418B

Samson Louis,
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, Peter Adrien, Judge.

Clayton R. Kaeiser, for appellant.

Bill McCollum, Attorney General, and Nicholas Merlin, Assistant Attorney General, for appellee.

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

PER CURIAM.

This is an appeal of an order summarily denying a motion under Florida Rule of Criminal Procedure 3.850. The defendant claims on appeal that his trial

counsel was ineffective for failing to request to place him in drug court for which the defendant was apparently qualified. The State has acknowledged that the defendant was qualified for drug court. Because the record before this Court fails to conclusively refute the defendant's claim that his trial counsel failed to request he be placed in drug court, we reverse the order and remand for an evidentiary hearing or other appropriate relief. Should the trial court again enter an order summarily denying the post-conviction motion, the court shall attach record excerpts exclusively showing the defendant was not entitled to the relief requested.

Reversed and remanded for further proceedings.