

Third District Court of Appeal

State of Florida, January Term, A.D., 2010

Opinion filed April 14, 2010.

Not final until disposition of timely filed motion for rehearing.

No. 3D09-3316

Lower Tribunal No. 08-19037

Kelly Evans,
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, Roberto M. Pineiro, Judge.

Kelly Evans, in proper person.

Bill McCollum, Attorney General, for appellee.

Before COPE, GERSTEN, and LAGOA, JJ.

PER CURIAM.

This is an appeal of an order summarily denying a motion under Florida Rule of Criminal Procedure 3.800(a). On appeal from a summary denial, this

Court must reverse unless the postconviction record, see Fla. R. App. P. 9.141(b)(2)(A), shows conclusively that the appellant is entitled to no relief. See Fla. R. App. P. 9.141(b)(2)(D).

Because the record now before us fails to make the required showing, we reverse the order and remand for further proceedings. If the trial court again enters an order summarily denying the postconviction motion, the court shall attach record excerpts conclusively showing that the appellant is not entitled to any relief.

Reversed and remanded for further proceedings.