

Third District Court of Appeal

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

Opinion filed August 4, 2010.

Not final until disposition of timely filed motion for rehearing.

No. 3D10-1468

Lower Tribunal No. 06-39498

Joseph Garcia,
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, Ellen Sue Venzer, Judge.

Joseph Garcia, in proper person.

Bill McCollum, Attorney General, for appellee.

Before GERSTEN, SHEPHERD, and LAGOA, JJ.

PER CURIAM.

This is an appeal of an order summarily denying a “Belated Motion to Withdraw Plea,” which the trial court treated as a motion under Florida Rule of Criminal Procedure 3.850. 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 the appellant is entitled to no relief. See Fla. R. App. P. 9.141(b)(2)(D); Castillo v. State, 13 So. 3d 37 (Fla. 3d DCA 2009).

As a result of our disposition, Appellant’s motion for enlargement of time to file an initial brief is denied as moot.

Reversed and remanded for further proceedings.