

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

OTTO BLACK,

Appellant,

v.

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

CASE NO. 1D09-4279

STATE OF FLORIDA,

Appellee.

/

Opinion filed June 21, 2010.

An appeal from the Circuit Court for Duval County.

John Merrett, Judge.

Otto Black, pro se, Appellant.

Bill McCollum, Attorney General, Trisha Meggs Pate, Bureau Chief, and Edward C. Hill, Jr., Assistant Attorney General, Tallahassee, for Appellee.

PER CURIAM.

Otto Black appeals an order denying his motion for postconviction relief filed under Florida Rule of Criminal Procedure 3.850. The motion raised eight grounds for relief premised on allegations of ineffective assistance of counsel. The trial court held a full evidentiary hearing and thereafter entered its order denying

relief *in toto*. We affirm the order as to Grounds One through Six and Ground Eight, but reverse as to Ground Seven. Although the court held an evidentiary hearing on the motion, it denied Ground Seven solely because the trial record refutes that claim. But the court failed to attach to the order those portions of the record supporting the denial. We therefore reverse and remand for the lower court to attach such parts of the trial record conclusively refuting the allegations made in Ground Seven. *See Gatlin v. State*, 24 So. 3d 743, 745 (Fla. 2d DCA 2009) (reversing and remanding where postconviction court held hearing on some 3.850 claims and denied others as refuted by the record but failed to attach relevant portions of the record to denial order).

AFFIRMED in part; REVERSED in part; and REMANDED.

KAHN, ROWE, and MARSTILLER, JJ., CONCUR.