

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2008

JEFFREY CHRISTMAN,

Appellant,

v.

Case No. 5D08-2488

STATE OF FLORIDA,

Appellee.

_____ /

Decision filed December 5, 2008.

3.850 Appeal from the Circuit
Court for Brevard County,
Charles M. Holcomb, Judge.

Stephen M. Groggoza, Naples, for
Appellant.

No Appearance for Appellee.

PER CURIAM.

AFFIRMED.

PLEUS and LAWSON, JJ., concur.
COHEN, J., concurs and concurs specially, with opinion.

COHEN, J., concurs specially.

I write to commend the trial court's handling of the motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.850. The trial court reviewed the initial motion and denied relief, but allowed Christman, pursuant to Spera v. State, 971 So. 2d 754 (Fla. 2007), to amend his claim that his lawyer failed to properly investigate the case.¹ Appellant's amended motion was again denied. Attached to the order were record excerpts that refuted most of the claims. The lone claim that was not refuted was properly found to be legally insufficient. Spera is still relatively new law, and we encourage trial courts to follow its dictate and allow postconviction motions to be amended, as the court did below. Spera's goal is the efficient administration of justice where cases are not bounced back and forth between the trial and appellate courts.

¹ The procedure outlined in Spera calls for the trial court to strike the portion of the motion which is legally insufficient and allow a reasonable time for amendment.