

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

JULY TERM 2009

LESTER WHITE, III,

Appellant,

v.

Case No. 5D09-490

STATE OF FLORIDA,

Appellee.

/

Opinion filed October 16, 2009

3.850 Appeal from the Circuit Court
for Brevard County,
John Griesbaum, Judge.

Lester White, III, Chipley, pro se.

Bill McCollum, Attorney General,
Tallahassee, and Carlos A. Ivanor,
Jr., Assistant Attorney General,
Daytona Beach, for Appellee.

PER CURIAM.

We affirm, without discussion, the trial court's summary denial of claims two, three, four, five, six, and seven as raised in Appellant's rule 3.850 motion for postconviction relief. We reverse the trial court's summary denial of claim one. With respect to claim one, the trial court has failed to include a copy of the transcript pages referenced in its order and, therefore, we are prevented from concluding that Appellant's

claim has been conclusively refuted by the record. See Fla. R. App. P. 9.141(b)(2)(D); LeBlanc v. State, 997 So. 2d 508, (Fla. 5th DCA 2008).

Accordingly, the instant matter is remanded to the trial court for the attachment of records which conclusively refute Appellant's first claim or, alternatively, in order for the trial court to conduct an evidentiary hearing on this ground.

AFFIRMED in part; REVERSED in part; REMANDED.

SAWAYA, PALMER and COHEN, JJ., concur.