

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

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

TRAVIOUS D. MOZIE,

Appellant,

v.

Case No. 5D17-882

STATE OF FLORIDA,

Appellee.

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Opinion filed December 1, 2017

3.850 Appeal from the Circuit Court  
for Brevard County,  
James H. Earp, Judge.

Travious D. Mozie, Crawfordville, pro se.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Douglas T. Squire,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

ON MOTION FOR REHEARING

PER CURIAM.

In consideration of Appellee's October 31, 2017 motion for rehearing or clarification and Appellant's November 15, 2017 motion for rehearing, we deny Appellant's motion, grant Appellee's requested relief, withdraw our prior opinion, and substitute this opinion in its stead.

Appellant appeals the summary denial of his Florida Rule of Criminal Procedure 3.850 motion for postconviction relief, arguing the trial court erred in summarily denying all seven of his claims without granting him an opportunity to amend them. We find that the record conclusively refutes claims 1, 2, 3, and 6 and affirm their summary denial. Because we find that claims 4 and 5 are facially insufficient, we reverse and remand for the trial court to afford Appellant an opportunity to amend the claims. See Spera v. State, 971 So. 2d 754, 761 (Fla. 2007). Accordingly, we further reverse the denial of claim 7, which alleged cumulative error, and order the trial court to address the claim on remand.

AFFIRMED in Part; REVERSED and REMANDED in Part.

LAMBERT, WALLIS and EISNAUGLE, JJ., concur.