

**SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

Case No. 6D2023-0681
Lower Tribunal No. CF15-008259-XX

NICK NICHOLAS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Polk County.
Melissa Gravitt, Judge.

October 25, 2024

PER CURIAM.

Nick Nicholas appeals the summary denial of his motion for postconviction relief under Florida Rule of Criminal Procedure 3.850.¹ We have jurisdiction. *See* Fla. R. Crim P. 3.850(k); Fla. R. App. P. 9.030(b)(1)(A). The trial court denied Nicholas's claims in an order that alluded to points raised in, and exhibits attached, to a State response hundreds of pages long, but did not attach any

¹ This case was transferred from the Second District Court of Appeal to this Court on January 1, 2023.

records conclusively demonstrating Nicholas was not entitled to relief to its order. *See* Fla. R. Crim. P. 3.850(f)(5). We therefore reverse and remand for the trial court to comply with rule 3.850(f)(4) or (5) if these records exist, or to conduct an evidentiary hearing under rule 3.850(f)(8) if they do not.

REVERSED and REMANDED.

TRAVER, C.J., and STARGEL and NARDELLA, JJ., concur.

Wade M. Whidden, of Whidden Johnson, P.L., Tampa, for Appellant.

Ashley Moody, Attorney General, Tallahassee, and Ceresse Crawford Taylor, Assistant Attorney General, Tampa, for Appellee.

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