

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

Case No. 6D2023-3105
Lower Tribunal No. 2016-CF-003513

BRYAN SYDNEY MENSAH,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Osceola County.
Tanya Davis Wilson, Judge.

August 28, 2026

GANNAM, J.

Bryan Mensah appeals the summary denial of his motion for postconviction relief under Florida Rule of Criminal Procedure 3.850. We affirm as to ground 1, but reverse and remand for an evidentiary hearing as to ground 2. Mensah's ground 2 claims a *Giglio*¹ violation, alleging the State allowed a key witness against Mensah to testify falsely. Specifically, Mensah alleged his trial counsel told him the State

¹ *Giglio v. United States*, 405 U.S. 150 (1972).

promised the witness a lenient plea deal in return for his testimony against Mensah, and further alleged the State knowingly elicited false testimony from the witness that he was not promised anything by the State in return for his testimony. While it's true Mensah's motion did not include or point to any evidence of the truth of these allegations, the portions of the record the postconviction court attached to its order denying the motion do not conclusively refute them. Thus, the record does not "show[] conclusively that the appellant is entitled to no relief," and we "must . . . reverse[] and . . . remand[] for an evidentiary hearing or other appropriate relief." Fla. R. App. P. 9.141(b)(2)(D).

Accordingly, as to the alleged *Giglio* violation in ground 2, we reverse the order denying Mensah's rule 3.850 motion and remand for the trial court to either enter a new order of denial attaching record materials conclusively refuting Mensah's allegations, conduct an evidentiary hearing on the motion, or conduct other proceedings consistent with this opinion.²

AFFIRMED in part; REVERSED in part; REMANDED with instructions.

TRAVER, C.J., and BROWNLEE, J., concur.

² Because it is not before us, and given our limited record, we make no determination as to whether ground 2 was sufficiently pled. On remand, prior to conducting any evidentiary hearing, the postconviction court is free to reconsider the legal sufficiency of ground 2 in Mensah's amended motion.

Matthew R. McLain, of McLain Law, P.A., Longwood, for Appellant.

James Uthmeier, Attorney General, Tallahassee, and Kristen L. Davenport, Assistant Attorney General, Daytona Beach, for Appellee.

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