

DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

SAMUEL HERNANDEZ,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

No. 2D2026-1292

September 18, 2026

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Hillsborough County; Michelle Sisco, Judge.

Samuel Hernandez, pro se.

PER CURIAM.

Mr. Samuel Hernandez appeals from an order summarily denying his amended motion for postconviction relief filed under Florida Rule of Criminal Procedure 3.850. After entering an open plea to DUI manslaughter and vehicular homicide, Mr. Hernandez alleged that counsel was ineffective in advising him concerning the plea, investigating the case, and preparing for sentencing. The postconviction court denied the claims principally on the basis of Mr. Hernandez's sworn answers during the plea colloquy. But the plea-related claims required the court to determine, under the totality of the circumstances, whether there was a reasonable probability that Mr. Hernandez would have rejected the plea

and insisted on proceeding to trial. *See Grosvenor v. State*, 874 So. 2d 1176, 1181–82 (Fla. 2004). The sentencing-related claim required a separate prejudice analysis under *Strickland v. Washington*, 466 U.S. 668 (1984). *See Jackson v. State*, 353 So. 3d 666, 668 (Fla. 2d DCA 2022).

Because the postconviction court did not apply those standards, we reverse and remand for it to reconsider the claims under the correct standards. *See State v. Jesus*, 351 So. 3d 223, 224 (Fla. 2d DCA 2022). On remand, the postconviction court may again summarily deny any claim that is conclusively refuted by the record; otherwise, it must conduct an evidentiary hearing. We express no opinion on the ultimate merits of the claims.

Reversed and remanded.

KHOUZAM, SMITH, and LABRIT, JJ., Concur.

Opinion subject to revision prior to official publication.