

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

SHELLEY GOLDMAN,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D14-4065

[August 12, 2015]

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Bernard I. Bober, Judge; L.T. Case No. 00-1245CF10A.

Loren D. Rhoton of Loren Rhoton, P.A., Tampa, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and James J. Carney, Senior Assistant Attorney General, West Palm Beach, for appellee.

PER CURIAM.

Shelley Goldman timely appeals the summary denial of a postconviction motion alleging newly discovered evidence of a plea offer that she first learned about at the evidentiary hearing on her prior rule 3.850 motion. The motion meets the pleading requirements of *Alcorn v. State*, 121 So. 3d 419, 430 (Fla. 2013). There was some testimony about the plea offer at the hearing, but failure to convey a plea offer was not one of the grounds alleged in the earlier motion, so the testimony was not relevant to the grounds alleged in the earlier motion. Although circumstantial evidence exists suggesting that Goldman was made aware of the plea offer and rejected it, her claim is not conclusively refuted by the record. We therefore reverse and remand for an evidentiary hearing on her claim of an un conveyed plea offer. See *Wainer v. State*, 943 So. 2d 894 (Fla. 4th DCA 2006); *Gallant v. State*, 898 So. 2d 1156 (Fla. 2d DCA 2005).

Reversed and Remanded.

WARNER, GROSS and DAMOORGIAN, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.