

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-0472

REGINALD CHATMAN,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Leon County.
Robert R. Wheeler, Judge.

September 28, 2018 ✓

PER CURIAM.

AFFIRMED.

ROBERTS, RAY, and WINSOR, JJ., concur.

*Not final until disposition of any timely and
authorized motion under Fla. R. App. P. 9.330 or
9.331.*

IN THE CIRCUIT COURT OF THE
SECOND JUDICIAL CIRCUIT IN
AND FOR LEON COUNTY, FLORIDA

STATE OF FLORIDA,

vs.

CASE NO.: 2009CF129

SPN: 200489

REGINALD L. CHATMAN,

Defendant.

ORDER DENYING MOTION FOR POSTCONVICTION RELIEF WITH PREJUDICE

THIS CAUSE came before the Court upon Defendant's *pro se* Motion for Postconviction Relief filed pursuant to *Florida Rule of Criminal Procedure* 3.850 on Sept. 27, 2017. Having considered the motion, reviewed the court record, and being otherwise fully advised, the Court hereby finds and decides as follows:

On Oct. 29, 2014, Defendant pled no contest to kidnapping to facilitate a felony with a firearm (Count 1) and attempted armed robbery with a firearm (Count 2). As part of an open plea, Defendant received 15 years and 6 months DOC incarceration followed by 5 years probation for Count 1, and 15 years DOC incarceration for Count 2, concurrent to Count 1. Defendant's sentences in the instant case were imposed concurrently to Case No. 2008CF3102A. The First District Court of Appeal *per curiam* affirmed Defendant's conviction and sentence by mandate issued Dec. 9, 2015 (case no. 1D14-5020).

Defendant filed his initial Motion for Postconviction Relief on Aug. 8, 2016. The Court determined that all ineffective assistance of counsel claims raised in the motion were facially and legally insufficient and in accordance with *Florida Rule of Criminal Procedure* 3.850(f)(3), gave Defendant 60 days in which to sufficiently plead his motion.

The instant amended motion was timely filed, but the ineffective assistance of counsel claims remain facially and legally insufficient. In order for Defendant to prevail on an ineffective assistance of counsel claim, he must demonstrate that counsel's performance was so deficient that it fell below an objective standard of reasonableness, and that counsel's deficient performance prejudiced the defense. *Strickland v. Washington*, 466 U.S. 668, 687 (1984). To

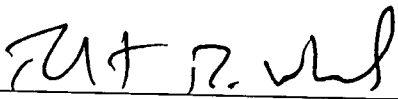
establish prejudice in a plea context, Defendant must show there is a reasonable probability that if not for counsel's error, he would not have pleaded guilty and would have insisted on going to trial. *State v. Dickey*, 928 So. 3d 1193, 1197 (Fla. 2006). None of Defendant's claims contain the required allegation of prejudice.

This Court has already given Defendant one opportunity to amend his claims and Defendant failed to cure the deficiency; *Spera* does not mandate that a court give a defendant repeated opportunities to amend insufficient claims. *Nelson v. State*, 977 So. 2d at 711 (holding that, after giving the defendant the one opportunity to amend required by *Spera*, if no amendment is filed or if the claim is again insufficient, the claim can be denied with prejudice). Accordingly, Defendant's ineffective assistance of counsel claims are summarily denied as facially insufficient, with prejudice.

WHEREFORE IT IS

ORDERED and ADJUDGED that Defendant's Motion for Postconviction Relief filed on Aug. 8, 2016, and Motion for Postconviction Relief filed on Sept. 27, 2017, are hereby **DENIED WITH PREJUDICE**. Defendant has 30 days from the date of this order to file a notice of appeal.

DONE AND ORDERED this 18 day of December, 2017.



ROBERT R. WHEELER
CIRCUIT JUDGE

Copies to:

~~REGINALD CHATMAN~~ DC# N23465
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STATE ATTORNEY'S OFFICE