

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-3097

JEREMY HICKS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Bradford County.
Mark W. Moseley, Judge.

July 9, 2019

PER CURIAM.

Jeremy Hicks entered a negotiated guilty plea to three counts of lewd or lascivious battery on a person under 16 and was sentenced to thirty years imprisonment. Hicks filed a postconviction motion alleging five grounds for relief, all of which the trial court denied without evidentiary hearing. We find that the record attachments to the order, including the transcript of Hicks' plea colloquy and the signed plea form, do not conclusively show that Hicks is entitled to no relief in grounds two and five of his motion, which alleged that his counsel was ineffective for failing to move to suppress incriminating statements he made to law enforcement after officers violated his *Miranda** rights. Fla. R. Crim. P. 3.850(f)(5). We therefore reverse this portion of the order

* *Miranda v. Arizona*, 384 U.S. 436 (1966).

and remand for an evidentiary hearing on this claim. Fla. R. App. P. 9.141(b)(2)(D). *See Wilson v. State*, 871 So. 2d 298, 299 (Fla. 1st DCA 2004) (“Appellant’s entry of a plea, plea colloquy, and other record attachments do not conclusively refute his first claim that his counsel failed to investigate evidence that would have supported a motion to suppress incriminating statements he gave to police while in custody without being informed of his *Miranda* rights, and that his counsel should have filed a motion to suppress.”). We affirm the trial court’s summary denial of Hicks’ three other claims.

AFFIRMED in part, REVERSED in part, and REMANDED.

WETHERELL, OSTERHAUS, and WINOKUR, JJ., concur.

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

Jeremy Hicks, pro se, Appellant.

Ashley Moody, Attorney General, and Michael McDermott, Assistant Attorney General, Tallahassee, for Appellee.