

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

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

ERNESTO SANTIAGO ROBLES,

Appellant,

v.

Case No. 5D18-2742

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed February 15, 2019

3.853 Appeal from the Circuit Court
for Orange County,
Marc L. Lubet, Judge.

Felix A. Felicier, of Felix Law Center P.A.,
Orlando, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Rebecca Roark Wall,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Ernesto Santiago Robles appeals the order summarily denying his Florida Rule of Criminal Procedure 3.853 motion for postconviction DNA testing. This rule requires, among other things, that if the motion is facially sufficient, the court shall order the prosecuting authority to respond to the motion within thirty days or such other time as may be determined by the court. See Fla. R. Crim. P. 3.853(c)(2). Here, the trial court

erred in ruling on Robles's motion without ordering a response from the State. See *Poole v. State*, 225 So. 3d 418, 419 (Fla. 5th DCA 2017); *Suber v. State*, 178 So. 3d 973, 973 (Fla. 5th DCA 2015).

Accordingly, we reverse the order and remand with directions that the court order the State to file a response to the motion.

REVERSED and REMANDED with directions.

LAMBERT, HARRIS, and SASSO, JJ., concur.