

FIRST DISTRICT COURT OF APPEAL OF FLORIDA

Bing v. State of Florida

No. 1D2025-2592 · No. No. 1D2025-2592 · Decided May 13, 2026

SUMMARY

The First District Court of Appeal reversed the summary denial of Darren Bing’s successive motion for postconviction relief based on a trial witness’s notarized recantation. The court held that the recantation was not inherently incredible or obviously immaterial and remanded for either record evidence conclusively refuting the claim or an evidentiary hearing.

CASE DETAILS

COURT	First District Court of Appeal of Florida
WRITING FOR THE COURT	NEFF, J.; ROBERTS, J.; M.K. THOMAS, J.
JURISDICTION	First District Court of Appeal of Florida
DECIDED	May 13, 2026
DOCKET	No. 1D2025-2592
DISPOSITION	reversed_and_remanded
PROCEDURAL POSTURE	Appeal from the summary denial, without an evidentiary hearing, of a successive Florida Rule of Criminal Procedure 3.850 motion alleging newly discovered evidence in the form of a trial witness's recantation affidavit.
STANDARD OF REVIEW	De novo review applies to a summary denial of a Florida Rule of Criminal Procedure 3.850 motion. Summary denial is proper only when the motion is legally insufficient or its allegations are conclusively refuted by the record.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Darren Bing v. State of Florida

TOPICS

- state post-conviction relief
- successive petitions
- evidence
- appellate procedure
- standard of review

PRACTICE AREAS

- criminal procedure
- post-conviction relief
- appellate procedure
- evidence

QUESTIONS PRESENTED

1. Whether the trial court properly summarily denied Bing's successive Rule 3.850 motion alleging newly discovered evidence without conducting an evidentiary hearing.
2. Whether the record conclusively demonstrated that Ritter's recantation was inherently incredible or obviously immaterial to the verdict.
3. Whether excerpts from the State's closing argument could conclusively refute the newly discovered-evidence claim.

HOLDINGS

1. The trial court erred by summarily denying Bing's motion because the motion adequately alleged newly discovered evidence and the record did not conclusively refute the claim.
2. Once a defendant properly alleges newly discovered evidence, an evidentiary hearing is ordinarily required to evaluate the new evidence and the trial evidence, unless the affidavit is inherently incredible or obviously immaterial to the verdict.
3. Excerpts from the State's closing argument could not demonstrate that the alleged newly discovered evidence was obviously immaterial to the verdict because closing argument is advocacy, not evidence.

KEY QUOTATIONS

"However, closing argument is not evidence; it is advocacy. A party's characterization of the evidence is not the evidence itself." (at 2)

"These closing argument excerpts therefore cannot demonstrate that the alleged newly discovered evidence is obviously immaterial to the verdict." (at 2)

"We therefore reverse the order of summary denial. On remand, the trial court shall either attach record evidence conclusively demonstrating the recantation to be obviously immaterial to the verdict or conduct an evidentiary hearing at which it may properly assess the credibility of Ritter's recantation and, if credited, determine whether the recanted testimony, weighed against all evidence presented at trial, would probably produce an acquittal on retrial." (at 3)

FACTUAL BACKGROUND

At Bing's trial, Lamont Ritter testified that Bing confessed to him in jail that Bing had been paid to commit William Redd's murder. Ritter later executed a notarized affidavit recanting that testimony, and Bing alleged that he learned of the recantation on June 5, 2025. The trial court relied in part on excerpts from another witness's direct examination, Ritter's trial testimony, and the State's closing arguments in denying relief without a hearing. The appellate court noted that Ritter's testimony was the only direct evidence purporting to recount Bing's own words acknowledging culpability.

PROCEDURAL HISTORY

Bing filed a successive Rule 3.850 motion on July 1, 2025, alleging that he had newly discovered a notarized affidavit in which trial witness Lamont Ritter recanted testimony that Bing had confessed to participating in the

murder. The Circuit Court for Alachua County denied the motion without an evidentiary hearing, concluding that Ritter's testimony was not a substantial part of the State's case and that overwhelming evidence supported guilt. The First District Court of Appeal reversed and remanded.

DISPOSITION

reversed_and_remanded

REMAND INSTRUCTIONS

The trial court must either attach record evidence conclusively demonstrating that the recantation is obviously immaterial to the verdict or conduct an evidentiary hearing. At the hearing, the court may assess the credibility of Ritter's recantation and, if it is credited, determine whether the recanted testimony, weighed against all evidence presented at trial, would probably produce an acquittal on retrial.

CASES CITED

- Morris v. State, 275 So. 3d 230, 234 (Fla. 1st DCA 2019)
- McLin v. State, 827 So. 2d 948, 954-55 (Fla. 2002)
- Taylor v. State, 3 So. 3d 986, 999 (Fla. 2009)
- Taylor v. State, 260 So. 3d 151, 158-59 (Fla. 2018)
- John v. State, 98 So. 3d 1257, 1259 (Fla. 3d DCA 2012)
- Davis v. State, 26 So. 3d 519, 526 (Fla. 2009)
- Braddy v. State, 111 So. 3d 810, 843 (Fla. 2012)
- Anderson v. State, 627 So. 2d 1170, 1171 (Fla. 1993)
- Lazo v. State, 419 So. 3d 1097, 1100 (Fla. 4th DCA 2025)
- Robinson v. State, 736 So. 2d 93, 93 (Fla. 4th DCA 1999)
- Jones v. State, 709 So. 2d 512, 521-22 (Fla. 1998)

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