

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

JUSTIN CHILDS,

Appellant,

v.

Case No. 5D16-3638

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed March 3, 2017

3.850 Appeal from the Circuit Court
for Sumter County,
William H. Hallman, III, Judge.

Justin Childs, West Palm Beach, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Pamela J. Koller,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Justin Childs appeals the trial court's order denying his Florida Rule of Criminal Procedure 3.850 motion for postconviction relief. We affirm as to Ground Two. However, because the record attachments do not conclusively refute Childs' claim that his plea is invalid since probation was not contemplated as part of the plea agreement, we reverse the summary denial of Ground One and remand for attachment of portions of the record

conclusively refuting this claim or for an evidentiary hearing. See Spacco v. State, 739 So. 2d 1269, 1270 (Fla. 5th DCA 1999) (explaining that defendant's plea may have been rendered invalid when trial court imposed split sentence because the defendant claimed to enter plea in exchange for what he believed would be a prison term without probation (citing Eggers v. State, 624 So. 2d 336 (Fla. 1st DCA 1993))).

AFFIRMED in part, REVERSED in part, and REMANDED.

BERGER and EDWARDS, JJ., and JACOBUS, B.W., Senior Judge, concur.