

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

JONATHAN SCOTT
THOMPSON,

Appellant,

v.

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

CASE NO. 1D12-2497

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed June 27, 2013.

An appeal from the Circuit Court for Duval County.
James H. Daniel, Judge.

Jonathan Scott Thompson, pro se, Appellant.

Pamela Jo Bondi, Attorney General, and Joshua R. Heller, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

The appellant appeals the trial court's order denying his postconviction motion, which argued, among other claims, that his trial counsel was ineffective because he failed to advise the appellant that double jeopardy precluded multiple convictions for possession of a firearm and ammunition by a convicted felon, thus

rendering his plea involuntary. The trial court denied the motion basically because the appellant entered a plea.

Notwithstanding the negotiated plea, the appellant's claims are cognizable. See Cox v. State, 908 So. 2d 1146 (Fla. 1st DCA 2005); Pearson v. State, 867 So. 2d 517 (Fla. 1st DCA 2004). Furthermore, we conclude these claims are facially sufficient. See Hill v. State, 711 So. 2d 1221 (Fla. 1st DCA 1998); Francis v. State, 41 So. 3d 975 (Fla. 5th DCA 2010); Boyd v. State, 17 So. 3d 812 (Fla. 4th DCA 2009).

Whether the appellant would have forgone his favorable plea in light of the life sentences he otherwise faced is a question that should be resolved at an evidentiary hearing.

We therefore reverse and remand for further proceeding on the double jeopardy issues. The order is otherwise affirmed.

WOLF and OSTERHAUS, JJ., CONCUR; MAKAR, J., CONCURS IN PART AND DISSENTS IN PART WITH OPINION.

MAKAR, J., concurring in part, dissenting in part.

I agree with the trial court's conclusion that, on this record, prejudice to Appellant is lacking because no reasonable probability exists that he would have decided to forego the very favorable plea agreement he received, which capped his sentence at 20 years of imprisonment, and go to trial when he faced multiple life sentences. I otherwise concur.