

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

CHRISTOPHER COOK,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
_____)

CASE NO. 2D02-1928

Opinion filed September 6, 2002.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court
for Charlotte County;
Donald E. Pellecchia, Judge.

FULMER, Judge.

Christopher Cook timely appeals the summary denial of his motion for postconviction relief. See Fla. R. Crim. P. 3.850. Cook raised four claims for relief. Because his first claim was facially sufficient and not refuted by any record attachments, we reverse. As to the other three claims, we affirm the denial of relief without discussion.

Cook was tried for three counts of lewd sexual battery on a child under the age of sixteen, and he was convicted of two counts. In his first claim, Cook alleged that defense counsel failed to communicate a plea offer by the State. He further alleged that he would have accepted the plea offer and that his sentence would have been less. These allegations are facially sufficient to state a claim for ineffective assistance of counsel. See Cottle v. State, 733 So. 2d 963, 969 (Fla. 1999). Although unartfully stated, Cook alleged that the State offered a plea to a single count and that if Cook had known about and accepted the offer, the State would have been foreclosed from charging additional counts. Because Cook's motion alleged a facially sufficient claim, we reverse. On remand, unless the claim is conclusively refuted by the record, an evidentiary hearing will be necessary.

Affirmed in part; reversed in part; remanded.

DAVIS and COVINGTON, JJ., Concur.