



amended motion, Shirley argued, among other things, that his trial counsel was ineffective for failing to seek a judgment of acquittal with respect to count 20 of the charges against him. Shirley contended that the State failed to prove that the victim of the crime was less than sixteen years old at the time of the offense. In summarily denying relief, the postconviction court stated that the victim "testified that his date of birth is October 16, 1982, and that the events at issue occurred while he visited the Defendant's home between April 1998 and September 1998." Based on this testimony, the court concluded that the State had established that the victim was under sixteen at the time of the alleged offense and thus counsel could not be deemed ineffective.

Our review of the excerpt of the victim's testimony attached to the postconviction court's order does not fully support the court's factual findings. The attachment reflects that the incidents occurred between April 1998 and September 1998, but it does not establish the victim's date of birth. Accordingly, we reverse the summary denial of ground 1 as to count 20 and remand for further proceedings. The postconviction court may again summarily deny relief on this claim if it attaches record evidence that conclusively refutes the claim. See Fla. R. Crim. P. 3.850(d).

Affirmed in part, reversed in part, and remanded.

CASANUEVA and STRINGER, JJ., Concur.