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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

LYNN ROBERT LEE,)
Appellant,)
v.) Case No. 2D08-3064
STATE OF FLORIDA,)
Appellee.)))

Opinion filed February 10, 2009.

Appeal pursuant to Fla. R. App. P. 9.141(b)(2) from the Circuit Court for Highlands County; Olin W. Shinholser, Judge.

STRINGER, Judge.

Lynn Robert Lee appeals the summary denial of his motion for postconviction relief filed pursuant to Florida Rule of Criminal Procedure 3.800. We affirm the denial of Lee's claims without comment and write only to correct a scrivener's error on the face of the written judgments, as to count one, in circuit court case numbers CF93-0344A1 and CF93-0345A1. Although Lee was charged with capital sexual battery, he pleaded no contest to a lesser offense of attempted sexual battery on a child

under the age of twelve, a first-degree felony. <u>See</u> § 794.011, Fla. Stat. (1993). The written judgments incorrectly identify attempted sexual battery as a second-degree felony. Accordingly, we remand for the trial court to correct the written judgments to reflect that attempted sexual battery is a first-degree felony.

Affirmed and remanded for correction.

KELLY and LaROSE, JJ., Concur.