

# Third District Court of Appeal

## State of Florida

Opinion filed February 08, 2017.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D16-2284  
Lower Tribunal No. 11-23587

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**Erick Pacheco,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Daryl E. Trawick, Judge.

Erick Pacheco, in proper person.

Pamela Jo Bondi, Attorney General, for appellee.

Before WELLS, ROTHENBERG, and LAGOA, JJ.

ROTHENBERG, J.

Erick Pacheco (“Pacheco”) was convicted of lewd and lascivious molestation on a child between the age of twelve and sixteen (Count 1); lewd and lascivious conduct on a child twelve to sixteen years of age by the defendant who was eighteen years of age or older (Count 3); and lewd and lascivious battery on a child less than sixteen years of age (Count 4).<sup>1</sup> The record reflects that the victim was thirteen or fourteen years old and Pacheco was thirty-eight years old when Pacheco committed the charged offenses upon the victim.

On direct appeal, this Court affirmed the convictions for the offenses charged in Counts 1 and 4, but based on the State’s proper confession of error (double jeopardy grounds), this Court reversed the conviction for the offense charged in Count 3 with instructions to the trial court to vacate the conviction and sentence imposed for Count 3, recalculate Pacheco’s sentencing scoresheet, and resentence Pacheco. Pacheco v. State, 170 So. 3d 913 (Fla. 3d DCA 2015). The trial court fully complied with this Court’s directive and substantially reduced Pacheco’s sentence.

Pacheco now appeals the trial court’s order denying his motion for postconviction relief, in which Pacheco alleged eleven separate grounds of ineffective assistance of trial counsel, which he contends requires a new trial. After review of Pacheco’s motion, the State’s lengthy (seventy-seven page) and

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<sup>1</sup> During trial, the trial court granted a judgment of acquittal as to Count 2 on double jeopardy grounds.

very thorough response, the record, the relevant statutes and case law, and the trial court's order, we find no error and affirm. The claims raised by Pacheco were refuted by the record and/or were without merit.

Affirmed.