

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

JANUARY TERM 2005

JOHN L. HARVEY,

Appellant,

v.

Case No. 5D04-1345

STATE OF FLORIDA,

Appellee.

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Opinion filed April 8, 2005

Appeal from the Circuit Court  
for Volusia County,  
R. Michael Hutcheson, Judge.

Raymond M. Warren of Warren & Warren,  
P.A., Daytona Beach, for Appellant.

Charles J. Crist, Jr., Attorney General,  
Tallahassee, and Robin A. Compton,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

PER CURIAM.

Appellant was charged with aggravated battery but convicted of the lesser crime of felony battery. A new trial is required, however, because the lower court committed fundamental error when it charged the jury on the "forcible felony" exception to self defense. *Carter v. State*, 889 So. 2d 937 (Fla. 4th DCA 2004).

**REVERSED and REMANDED.**

SHARP, W., PLEUS and TORPY, JJ., concur.