

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

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

JEREMY ROGER HOULE,

Appellant,

v.

Case No. 5D13-1348

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed May 9, 2014

Appeal from the Circuit Court
for Seminole County,
Kenneth R. Lester, Jr., Judge.

James S. Purdy, Public Defender, and
Rose M. Levering, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Kaylee D. Tatman,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Jeremy Houle timely appeals the judgment and sentence rendered following the return of the jury verdict finding him guilty of Count I, escape; Count II, the lesser included offense of assault; Count III, felony battery; Count IV, battery; and Count V, criminal mischief. He argues (1) the convictions for felony battery and battery violate double jeopardy; (2) the court erred by imposing restitution without a hearing and based on

hearsay; and (3) the court erred by denying his motion for judgment of acquittal on the escape charge. The charges stem from a physical altercation between Houle and his live-in girlfriend.

As to the first issue, Houle asserts the convictions for both Count III, felony battery, and Count IV, battery, violate double jeopardy principles because both convictions stemmed from the same criminal episode involving the same victim with no temporal break between the acts. We agree. See Harris v. State, 111 So. 3d 922 (Fla. 1st DCA 2013). Therefore, we reverse his conviction for battery and remand for entry of an amended judgment deleting that conviction. In all other respects, we affirm.

AFFIRMED in part; REVERSED in part; REMANDED.

GRIFFIN, SAWAYA, and WALLIS, JJ., concur.