

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

JULY TERM 2013

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

DARIUS JAMINE POLITE,

Appellant,

v.

CASE NO. 5D08-3921

STATE OF FLORIDA,

Appellee.

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Opinion filed July 26, 2013.

Appeal from the Circuit Court  
for Orange County,  
Lisa T. Munyon, Judge.

William R. Ponall and Warren W. Lindsey,  
of Kirkconnell, Lindsey, Snure and Yates  
P.A., Winter Park, for Appellant.

Pamela Jo Bondi, Attorney General  
Tallahassee, and Kristen L. Davenport  
Assistant Attorney General, Daytona Beach  
for Appellee.

**ON REMAND FROM THE SUPREME COURT OF FLORIDA**

PER CURIAM.

This case is before us on remand from the Florida Supreme Court which quashed our earlier decision reported at *Polite v. State*, 41 So. 3d 935 (Fla. 5th DCA 2010).

Based on *Polite v. State*, 38 Fla. L. Weekly S386 (Fla. June 6, 2013), we reverse Polite's convictions and sentences for burglary of a dwelling with an assault or battery,

robbery with a firearm, aggravated assault with a firearm and possession of a firearm by a convicted felon,<sup>1</sup> and remand for a new trial.

REVERSED AND REMANDED WITH DIRECTIONS.

TORPY, C.J., LAWSON and EVANDER, JJ., concur.

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<sup>1</sup> §§ 810.02(2)(a), 775.087(1), 775.087(2); 812.13(2)(a), 775.087(2); 784.021; 775.087(2), Fla. Stat. (2008).