

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

JOHN KITTRELL,

Appellant,

v.

Case No. 5D11-3563

STATE OF FLORIDA,

Appellee.

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Opinion filed July 19, 2013

Appeal from the Circuit Court  
for Brevard County,  
Robert A. Wohn, 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 Rebecca Rock  
McGuigan, Assistant Attorney General,  
Daytona Beach, for Appellee.

PER CURIAM.

Appellant challenges his convictions and sentences on ten counts of capital sexual battery, eight counts of lewd or lascivious molestation, and one count of lewd or lascivious exhibition. We affirm the convictions and sentences on all counts except Counts 1, 4, 8, 15 and 19. Because the State failed to introduce independent evidence to prove these counts, it was error to admit Appellant's confession to these crimes and

Appellant is entitled to a new trial.<sup>1</sup> See *Corona v. State*, 64 So. 3d 1232 (Fla. 2011) (ordering new trial after concluding that without confession, permissible evidence failed to establish corpus delicti of charged crime).

AFFIRMED in part; REVERSED in part and REMANDED.

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

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<sup>1</sup> No attempt was made to introduce the confession pursuant to section 92.565, Florida Statutes (2011).