

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

TORY EAST,

Appellant,

v.

Case No. 5D12-2759

STATE OF FLORIDA,

Appellee.

Opinion filed November 15, 2013

Appeal from the Circuit Court
for Orange County,
Emerson R. Thompson, Jr., Senior Judge.

James S. Purdy, Public Defender, and
Eliza Puchalski, Assistant Public Defender,
Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Douglas T. Squire,
Assistant Attorney General, Daytona
Beach, for Appellee.

GRIFFIN, J.

We find no error in either issue raised on appeal. The State properly has brought to our attention, however, that Appellant was erroneously adjudicated guilty of both burglary with a battery and a simple battery based on the same conduct. The court did not score or sentence Appellant on the battery; however, it erroneously appears on the judgment. We remand for the trial court to strike it from the judgment.

AFFIRMED; and REMANDED to correct judgment.

SAWAYA and BERGER, JJ., concur.