

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

HENRY LAMB,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D08-4274

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Opinion filed October 14, 2009

An appeal from the Circuit Court for Suwannee County.  
David W. Fina, Judge.

Nancy A. Daniels, Public Defender, and Barbara J. Busharis, Assistant Public  
Defender, Tallahassee, for Appellant.

Bill McCollum, Attorney General, and Giselle Denise Lyles, Assistant Attorney  
General, Tallahassee, for Appellee.

PER CURIAM.

Following this court's recent decision in Montgomery v. State, --- So. 2d ---  
(Fla. 1st DCA 2009), rev. granted State v. Montgomery, 11 So. 3d 943 (Fla. 2009),  
the trial court committed fundamental error by giving the standard jury instruction  
for attempted manslaughter by act, which adds the additional element that the

defendant “committed an act intended to cause the death” of the victim when attempted manslaughter by act requires only an intentional unlawful act.

REVERSED and REMANDED.

BARFIELD, KAHN, and VAN NORTWICK, JJ., CONCUR.