

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

RONALD RICHARD
DESCAULT,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D11-3482

Opinion filed July 3, 2012.

An appeal from the Circuit Court for Escambia County.
Linda L. Nobles, Judge.

Nancy A. Daniels, Public Defender, and Glen P. Gifford, Assistant Public
Defender, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, and Heather Flanagan Ross, Assistant
Attorney General, Tallahassee, for Appellee.

WOLF, J.

Ronald Descault challenges on appeal his resentencing for aggravated battery with a deadly weapon and with great bodily injury. Appellant raises two points, one of which we find has merit. The trial court improperly reclassified appellant's offense from a second-degree felony to a first-degree felony. We find

this case indistinguishable from Cabral v. State, 944 So. 2d 1026 (Fla. 1st DCA 2006), and Webb v. State, 997 So. 2d 469 (Fla. 2d DCA 2008), and thus, are constrained to remand for resentencing. Absent these and other similar decisions, we would find the reasoning of Judge Altenbernd's dissent in Webb to be persuasive.

Reversed and remanded for resentencing in accordance with this opinion.

LEWIS and THOMAS, JJ., CONCUR.