

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, A.D. 2005

TRACY WELCH,

**

Appellant,

**

vs.

** CASE NO. 3D04-2222

THE STATE OF FLORIDA,

**

Appellee.

** LOWER
TRIBUNAL NO. 00-19429
**

Opinion filed June 1, 2005.

An Appeal from the Circuit Court for Miami-Dade County,
David C. Miller, Judge.

Bennett H. Brummer, Public Defender, and Howard K.
Blumberg, Assistant Public Defender, for appellant.

Charles J. Crist, Attorney General, and Valentina M.
Tejera, Assistant Attorney General, for appellee.

Before COPE and SHEPHERD, JJ., and SCHWARTZ, Senior Judge.

SHEPHERD, J.

The appellant, Tracy Welch, appeals that portion of her
judgment of conviction that adjudicated her guilty of aggravated

assault on the ground that the judgment does not accurately reflect the terms of her plea agreement as contained in the plea colloquy or the oral pronouncement of the trial court.

Based upon the state's proper confession of error and our review of the record, we remand with directions that the trial court vacate the adjudication on the aggravated assault charge. The judgment as entered on the manslaughter charge and the sentence are not affected by this decision. The defendant need not be present.