

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

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

ROMAYNE O. MORRISON,

Appellant,

v.

Case No. 5D16-1054

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed September 29, 2017

Appeal from the Circuit Court
for St. Johns County,
J. Michael Traynor, Judge.

James S. Purdy, Public Defender, and
Thomas J. Lukashow, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Marjorie Vincent-Tripp,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Appellant Romaine Morrison appeals his convictions for attempted sexual battery and battery.¹ We affirm his conviction and sentence for attempted sexual battery. However, the battery was part and parcel of the attempted sexual battery, and a separate conviction for that charge was precluded by double jeopardy. See, e.g., Parton v. State,

¹ Appellant was also convicted of false imprisonment, but he does not challenge that conviction on appeal.

59 So. 3d 1212, 1213 (Fla. 5th DCA 2011) (“[A] defendant can be convicted of both [attempted] sexual battery and battery. However, if the battery is based on the same acts that form the basis for the sexual battery, double jeopardy prohibits dual convictions.” (citations omitted)); Garcia v. State, 769 So. 2d 449, 449 (Fla. 4th DCA 2000) (“[B]ecause there was one continuous offense in this case, and the battery was not separate from the sexual battery, double jeopardy prohibits the multiple convictions and punishments.”). We therefore vacate Appellant’s conviction and sentence for battery.

AFFIRMED IN PART; VACATED IN PART.

COHEN, C.J., WALLIS and LAMBERT, JJ., concur.