

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

JULIO MARRERO,

Appellant,

v.

Case No. 5D20-1197

STATE OF FLORIDA,

Appellee.

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Opinion filed March 5, 2021

3.850 Appeal from the Circuit  
Court for Orange County,  
Tom Young, Judge.

Julio Marrero, South Bay, pro se.

Ashley Moody, Attorney General, Tallahassee,  
and Douglas T. Squire, Assistant Attorney  
General, Daytona Beach, for Appellee.

HARRIS, J.

Julio Marrero appeals the order denying his motion for postconviction relief based on his claim of newly discovered evidence. We find no error in the ruling below and affirm the lower court's order. We note, however, a discrepancy between the jury verdict and the judgment with respect to Count I. The trial transcript and the verdict form both reflect that, while Marrero was charged with attempted first-degree murder with a firearm, he was found guilty of the lesser included offense of attempted second-degree murder with

a firearm. The judgment, as well as the court's sentencing order, reflect that Marrero was found guilty of attempted first-degree murder rather than the charge for which he was actually found guilty.

Because the order on appeal correctly references that Marrero was found guilty of the lesser included offense of attempted second-degree murder with a firearm, and finding no merit in Marrero's claims of error, we affirm. However, we remand this matter for correction of the judgment and the sentencing order to reflect that Marrero's conviction on Count I was for attempted second-degree murder with a firearm.

AFFIRMED; REMANDED

EVANDER, C.J. and EDWARDS, J., concur.