

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

JULY TERM 2003

JAY R. AHRENS,

Appellant,

v.

CASE NO. 5D02-3953

STATE OF FLORIDA,

Appellee.

Opinion filed December 19, 2003

Appeal from the Circuit Court
for Orange County,
Frank Kaney, Senior Judge.

James B. Gibson, Public Defender, and Meghan Ann
Collins, Assistant Public Defender, Daytona Beach,
for Appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee,
and Rebecca Rock McGuigan, Assistant Attorney
General, Daytona Beach, for Appellee.

MONACO, J.

Jay Ahrens appeals from a judgment and sentence concerning his conviction after a jury trial of simple battery. Mr. Ahrens asserts, first, that the trial judge improperly interfered with jury selection. As there was no objection to the actions of the trial judge, and as Mr. Ahrens unconditionally accepted and tendered the jury, he has failed to preserve the error that he alleges. See, e.g., *Joiner v. State*, 618 So. 2d 174 (Fla. 1993); *Barnette v. State*, 768 So. 2d 1246 (Fla. 5th DCA 2000); *Karp v. State*, 698 So. 2d 577 (Fla. 3d DCA 1997).

Mr. Ahrens accurately points out, however, that the judgment contains a scrivener's error in that it lists the battery for which he was convicted as a third degree felony, rather than a first degree misdemeanor. See § 784.03, Fla. Stat. (2002).

Accordingly, we affirm except to the extent that the judgment misidentifies the quality of the offense of which Mr. Ahrens was convicted, and we remand for correction of the scrivener's error.

AFFIRMED and REMANDED to correct scrivener's error.

SAWAYA, C.J., and GRIFFIN, J., concur.