

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

JANUARY TERM 2011

RODNEY DWAYNE THOMAS,

Appellant,

v.

Case No. 5D09-398

STATE OF FLORIDA,

Appellee.

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Opinion filed April 15, 2011

Appeal from the Circuit Court for
Orange County,
Emerson Thompson, Jr., Senior Judge.

Rodney D. Thomas, Milton, pro se.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Bonnie Jean Parrish,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Rodney Thomas appeals his convictions for burglary of a dwelling with the commission of an assault or battery therein, robbery with a weapon, aggravated fleeing and eluding, and grand theft. We affirm, finding no error in the trial court's refusal to give the independent act jury instruction. See Boyd v. State, 912 So. 2d 26, 27 (Fla. 4th DCA 2005). We do, however, remand for correction of a scrivener's error as it relates to count 5. Thomas was convicted of petit theft of property greater than \$100 but less than \$300, a lesser included offense of grand theft. The trial court, obviously aware of the

conviction of the lesser included offense, sentenced Thomas to 153 days time served on the theft charge. The judgment and sentence incorrectly reflected a conviction of grand theft.

AFFIRMED; REMANDED for correction of scrivener's error as to count 5.

PALMER, ORFINGER and COHEN, JJ., concur.