

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

JULY TERM 2011

GARY JAMEL CANNON, JR.,

Appellant,

v.

Case No. 5D10-4368

STATE OF FLORIDA,

Appellee.

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Opinion filed November 4, 2011

Appeal from the Circuit Court
for Volusia County,
Margaret Hudson, Judge.

James S. Purdy, Public Defender, and
Anne Moorman Reeves, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Carmen F. Corrente,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Gary Jamel Cannon, Jr., appeals his conviction on the charge of attempted second-degree murder, with special jury findings that he actually possessed and discharged a firearm while committing the crime.¹ His sole argument on appeal is that the jury instruction on the lesser included offense of attempted voluntary manslaughter

¹ Cannon was charged with attempted first-degree premeditated murder.

constituted fundamental error. We agree and reverse, remanding for a new trial on the charge of attempted second-degree murder. See *Burton v. State*, --- So. 3d ----, 2011 WL 1326258 (Fla. 5th DCA 2011). As in *Burton*, we certify that this decision expressly and directly conflicts with the Fourth District's decision in *Williams v. State*, 40 So. 3d 72 (Fla. 4th DCA 2010), *rev. granted*, 64 So. 3d 1262 (Fla. 2011).

REVERSED and REMANDED; CONFLICT CERTIFIED.

GRIFFIN, TORPY and LAWSON, JJ., concur.