

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

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

NEKEISHA ALEXANDER,

Appellant,

v.

CASE NO. 1D04-3538

STATE OF FLORIDA,

Appellee.

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Opinion filed September 8, 2005.

An appeal from Circuit Court for Leon County.  
Richard L. Hood, Judge.

James C. Banks, Tallahassee, for Appellant.

Charlie Crist, Attorney General, and Alan R. Dakan, Assistant Attorney General,  
Tallahassee, for Appellee.

ALLEN, J.

The appellant was convicted of an aggravated battery and a simple battery, based on her involvement in two incidents when her husband was in a fight with another man. As to the aggravated battery, the appellant asserted that she became

involved in that incident in order to protect her husband from being attacked by the other man. There was evidence at trial which could support this assertion, and the appellant requested a jury instruction as to the justifiable use of force in defense of another. This was a necessary instruction for the jury's proper consideration of the issues in the case, and the trial court abused its discretion in declining to give the requested instruction. Langston v. State, 789 So. 2d 1024 (Fla. 1st DCA 2001); see also, e.g., Beachy v. State, 837 So. 2d 1152 (Fla. 1st DCA 2003).

Because the requested instruction did not impact the simple battery, that conviction is affirmed. However, the aggravated battery conviction is reversed, and the case is remanded.

WOLF and BENTON, JJ., CONCUR.