

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

WILLIAM BRYAN
PRIVETT,

Appellant,

v.

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

CASE NO. 1D12-0192

STATE OF FLORIDA,

Appellee.

Opinion filed April 16, 2013.

An appeal from the Circuit Court for Alachua County.
Ysleta W. McDonald, Judge.

Nancy A. Daniels, Public Defender, and Richard M. Summa, Assistant Public
Defender, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, and Jay Kubica, Assistant Attorney General,
Tallahassee, for Appellee.

PER CURIAM.

We affirm William Bryan Privett's conviction for lewd or lascivious battery on a person under 16 years of age and the ten-year sentence (followed by five years' probation) he received as a result. We also affirm his convictions on counts three and four and the sentences he received on those counts. But we reverse his

conviction on count two for soliciting unlawful sexual activity with minors, in violation of sections 794.05 and 777.04(2), Florida Statutes (2008). See Stumpf v. State, 677 So. 2d 1298, 1298 (Fla. 5th DCA 1996) (“Threatening to make another person the victim of a crime obviously does not constitute the conduct proscribed by section 777.04(2), Florida Statutes[.]”). See also Randall v. State, 919 So. 2d 695, 697 (Fla. 4th DCA 2006); Patel v. State, 679 So. 2d 850, 852 (Fla. 1st DCA 1996) (reversing because the charged offense would require proof that the defendant had been “soliciting [the minor] to commit sexual battery on another child younger than age 16”).

Affirmed in part, reversed in part, and remanded.

BENTON, C.J., ROWE, and MARSTILLER, JJ., CONCUR.