

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

JOE LEWIS JENKINS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D12-1009

Opinion filed February 27, 2013.

An appeal from the Circuit Court for Escambia County.
Nickolas P. Geeker, Judge.

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

Pamela Jo Bondi, Attorney General, and Heather Flanagan Ross, Assistant
Attorney General, Tallahassee, for Appellee.

PER CURIAM.

Appellant, Joe Lewis Jenkins, challenges his convictions for second-degree
murder and attempted second-degree murder. Appellant's conviction for second-
degree murder is reversed because the trial court only instructed the jury on

manslaughter by culpable negligence. Bradshaw v. State, 61 So. 3d 1266, 1266 (Fla. 3d DCA 2011) (holding that instructing the jury on the lesser included offense of manslaughter by instructing only as to the culpable negligence prong and omitting entirely the manslaughter by act aspect of the crime was fundamental error); Bolin v. State, 8 So. 3d 428, 430 (Fla. 2d DCA 2009) (same). Appellant's conviction for attempted second-degree murder is also reversed because the trial court used a jury instruction for attempted manslaughter by act that required the jury to find that Appellant had the intent to kill the victim. Lamb v. State, 18 So. 3d 734, 734 (Fla. 1st DCA 2009); but see Williams v. State, 40 So. 3d 72, 75 (Fla. 4th DCA 2010), rev. pending, 64 So. 3d 1262 (Fla. 2011).

REVERSED and REMANDED.

DAVIS, RAY, and SWANSON, JJ., CONCUR.