

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

DARRELL THORNTON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D10-2307

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Opinion filed September 10, 2014.

An appeal from the Circuit Court for Clay County.  
John H. Skinner, Judge.

Steven Brian Whittington of Whittington & Culbert, P.A., Green Cove Springs, for  
Appellant.

Pamela Jo Bondi, Attorney General, and Donna A. Gerace, Assistant Attorney  
General, Tallahassee, for Appellee.

PER CURIAM.

Darrell Thornton appeals his convictions and sentences for attempted second-degree murder, battery, robbery with a deadly weapon, carjacking, and second-degree arson. As the State properly concedes, fundamental error in the conviction for attempted second-degree murder occurred when the court instructed the jury that an element of the lesser-included offense of attempted manslaughter

by act is the commission of “an act which was intended to cause the death of” the victim. Williams v. State, 123 So. 3d 23 (Fla. 2013). Consequently, we reverse the conviction and sentence for attempted second-degree murder and remand for a new trial on that count. We otherwise affirm.

AFFIRMED in part; REVERSED in part; and REMANDED.

THOMAS, RAY, and OSTERHAUS, JJ., CONCUR.