

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

THEODIST TYRONE
RICHARDSON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D14-5335

Opinion filed December 31, 2015.

An appeal from the Circuit Court for Duval County.
James H. Daniel, Judge.

Teresa J. Sopp, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, and Trisha Meggs Pate, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

Appellant was convicted of first-degree murder, second-degree murder, attempted first-degree murder, six counts of attempted second-degree murder, and shooting or throwing deadly missiles into occupied dwellings, all stemming from a shoot-out at an apartment complex. He raises two issues on appeal, we affirm as to the first issue without further comment. In the second issue, Appellant contends that the trial court erred when instructing the jury as to self-defense for three

separate reasons. We reach only his argument that the court erred in giving the “aggressor” instruction pursuant to section 776.041, Florida Statutes (2011), which included the requirement that Appellant was to have “exhausted every reasonable means to escape the danger,” in direct conflict with the statutory right to stand one’s ground then in effect. On this point, we agree with Appellant that it is necessary to reverse his convictions and remand for a new trial based on our precedent in Floyd v. State, 151 So. 3d 452 (Fla. 1st DCA 2014), review granted, State v. Floyd, 168 So. 3d 229 (Fla. Dec. 16, 2014); Ross v. State, 157 So. 3d 406 (Fla. 1st DCA 2015); and Swearingden v. State, 2015 WL 2189750 (Fla. 1st DCA May 12, 2015).

REVERSED and REMANDED for a new trial.

WETHERELL, ROWE, and RAY, JJ., CONCUR.