

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-0597

WILLIE DOZIER,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Leon County.
Angela C. Dempsey, Judge.

November 1, 2019

PER CURIAM.

Appellant was convicted of three counts of sexual battery on a child under age twelve by a person over age eighteen. We affirm appellant's judgments and sentences on counts one and two without further comment.

As to the third count, we find the trial court erred in denying appellant's motion for judgment of acquittal because the State failed to present evidence establishing union between appellant's penis and the child victim's anus.

We thus AFFIRM appellant's judgments and sentences on counts one and two, REVERSE appellant's judgment and sentence on count three and REMAND with directions for the trial court to adjudicate appellant guilty of the offense of battery and resentence

appellant accordingly. Fla. R. Crim. P. 3.620; *State v. Harris*, 660 So. 2d 285, 286–87 (Fla. 5th DCA 1995).

WOLF, KELSEY, and WINOKUR, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Andy Thomas, Public Defender, and Kathleen Stover, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Quentin Humphrey, Assistant Attorney General, Tallahassee, for Appellee.