

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2014

BRIAN D. KABLITZ,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D10-226

[May 28, 2014]

ON REMAND FROM THE SUPREME COURT OF FLORIDA

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Richard I. Wennet, Judge; L.T. Case No. 2004CF003068AXX.

Carey Haughwout, Public Defender, and Paul E. Petillo, Assistant Public Defender, West Palm Beach, for appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Daniel P. Hyndman, Assistant Attorney General, West Palm Beach, for appellee.

DAMOORGIAN, C.J.

We reconsider on remand our opinion in *Kablitz v. State*, 134 So. 3d 969 (Fla. 4th DCA 2011), which was quashed by the Florida Supreme Court following its decision in *Blackmon v. State*, 121 So. 3d 535, 548–49 (Fla. 2013) (holding that a trial court’s error in failing to instruct the jury pursuant to section 812.025 was “not fundamental error such that we would require a new trial.”). In accordance with the supreme court’s holding in *Blackmon*, we reverse Kablitz’s conviction for petit theft and remand with directions that the trial court vacate that conviction and resentence him on the dealing in stolen property conviction. We affirm in all other respects.

Remanded for further proceedings.

WARNER and GERBER, JJ., concur.

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