

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2007

JORDAN TYLER AGNEW,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D05-4011

[March 28, 2007]

PER CURIAM.

The defendant appeals his conviction and sentence on two counts of attempted armed robbery while wearing a mask, one count of attempted burglary of a dwelling with an assault or battery while armed, and two counts of aggravated assault with a firearm and mask. With regard to the burglary of a dwelling with an assault or battery while armed count, he argues that the trial court erred in adjudicating him guilty of a charge greater than that to which he pled.¹ He does not suggest any error in the sentence. The State agrees that the defendant pled to the lesser charge of attempt, but suggests we affirm and remand the case to correct the record. We agree.

The defendant pled to the charge of attempted burglary of a dwelling with an assault or battery. The record inaccurately reflects that he pled to the charged crime of burglary of a dwelling with an assault or battery. We therefore affirm, but remand the case to the trial court to correct the scrivener's error.

Affirmed, and Remanded.

STONE, FARMER and MAY, JJ., concur.

* * *

¹ He also raised an issue concerning the denial of his motion to withdraw his plea. Considering that the defendant has now withdrawn that motion, the issue is moot.

Appeal from the Circuit Court for the Nineteenth Judicial Circuit, St. Lucie County; Burton Conner, Judge; L.T. Case No. 562002CF003568B.

Carey Haughwout, Public Defender, and Marcy K. Allen, Assistant Public Defender, West Palm Beach, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Heidi L. Bettendorf, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing