

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2006

DEVORIS ALLEN, TRAVIS EDWARDS and **JEFFERY LEON
BROWNING, JR.,**
Appellants,

v.

STATE OF FLORIDA,
Appellee.

No. 4D06-1035

[October 11, 2006]

MAY, J.

The defendants appeal their convictions and sentences for attempted robbery. In their second issue, they argue that the absence of a valid waiver of jury trial requires a reversal. The State agrees that the record fails to contain "either a written or oral waiver of a jury trial" by any of the defendants. We therefore reverse and remand the case for a new trial. *Cf. Tucker v. State*, 559 So. 2d 218 (Fla. 1990) (opining that best practice is to have record evidence of both an oral and written waiver of jury trial, but affirming when there was record evidence of only a knowing and intelligent oral waiver).

Reversed and Remanded.

WARNER and HAZOURI, JJ., concur.

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Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Nelson E. Bailey, Judge; L.T. Case No. 05-06946CFA06 "Y".

Ira D. Karmelin, West Palm Beach, for appellants.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Thomas A. Palmer, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.