

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2007*

**RICKY FARRUGIA,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D06-4150

[November 7, 2007]

PER CURIAM.

We affirm appellant's conviction for grand theft, finding that his claim that the court erred in instructing the jury in a manner that permitted conviction based upon acquitted conduct was not preserved for review by objection. It also did not constitute fundamental error, as the prosecutor did not argue to the jurors that they could convict on the conduct on which the trial court granted a judgment of acquittal. *Compare Perley v. State*, 947 So. 2d 672 (Fla. 4th DCA 2007). We remand, however, for correction of the final judgment to reflect that appellant was found guilty by a jury and did not plead guilty to the charge.

Affirmed but remanded to correct scrivener's error.

SHAHOOD, C.J., WARNER and STEVENSON, JJ., concur.

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Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Lucy Chernow Brown, Judge; L.T. Case No. 06-5541 CFA02.

Carey Haughwout, Public Defender, and David John McPherrin, Assistant Public Defender, West Palm Beach, for appellant.

Bill McCollum, 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.***