

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2011

KAWUAN L. DAVIS,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D09-3260

[September 14, 2011]

GERBER, J.

After consideration of the three arguments which the defendant raises in this appeal, we affirm the defendant's convictions and sentence. We write to address only the defendant's argument that the trial court committed fundamental error in giving the standard jury instruction on attempted voluntary manslaughter which contains language regarding the defendant "commit[ing] an act which was intended to cause the death of" the victim. We affirm on that argument consistent with our opinion in *Williams v. State*, 40 So. 3d 72 (Fla. 4th DCA 2010) (giving of the standard jury instruction on attempted voluntary manslaughter was not fundamental error in a prosecution for attempted first degree murder in which the defendant was convicted of the lesser included offense of attempted second degree murder), *rev. granted*, No. SC10-1458, 64 So. 3d 1262 (Fla. 2011). We certify conflict with *Houston v. State*, 36 Fla. L. Weekly D1772 (Fla. 2d DCA Aug. 12, 2011); *Burrows v. State*, 62 So. 3d 1258 (Fla. 3d DCA 2011); *Burton v. State*, 36 Fla. L. Weekly D738 (Fla. 5th DCA Apr. 8, 2011); and *Lamb v. State*, 18 So. 3d 734 (Fla. 1st DCA 2009).

Affirmed; conflict certified.

STEVENSON and TAYLOR, JJ., concur.

* * *

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Lucy Chernow Brown, Judge; L.T. Case No. 502008CF007861A.

Philip J. Massa, Regional Counsel, and Randall Berman, Special Assistant Conflict Counsel, Office of Criminal Conflict and Civil Regional Counsel, West Palm Beach, for appellant.

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

Not final until disposition of timely filed motion for rehearing.