

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING  
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

HUGH JAMES BUTLER, )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF FLORIDA, )  
 )  
 Appellee. )  
 \_\_\_\_\_ )

Case No. 2D07-1695

Opinion filed February 20, 2009.

Appeal from the Circuit Court for  
Hillsborough County; William Fuente,  
Judge.

James Marion Moorman, Public Defender,  
and Richard P. Albertine, Jr., Assistant  
Public Defender, Bartow, for Appellant.

Bill McCollum, Attorney General,  
Tallahassee, and Katherine Coombs Cline,  
Assistant Attorney General, Tampa, for  
Appellee.

PER CURIAM.

Hugh James Butler appeals his judgments and sentences for burglary,  
battery, and criminal mischief. We affirm the judgments on the burglary and battery

charges and affirm the sentences without comment. We remand for correction of the judgment on the charge of criminal mischief.

The record reflects that the jury was instructed on, and Mr. Butler was convicted of, second-degree misdemeanor criminal mischief (count 3). Mr. Butler was sentenced to time served. However, the judgment erroneously lists the conviction as first-degree misdemeanor criminal mischief. Mr. Butler raised this issue in his motion to correct sentencing error. In its order, the trial court correctly noted that the sentence imposed on count 3 was for time served. However, the trial court failed to correct the judgment to reflect the proper degree of the crime. On remand, the trial court shall amend the judgment to reflect that Mr. Butler was convicted of second-degree misdemeanor criminal mischief rather than first-degree misdemeanor criminal mischief.

Affirmed and remanded for corrections to the judgment.

KELLY, VILLANTI, and WALLACE, JJ., Concur.