

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

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
SECOND DISTRICT

T.V.W., )  
 )  
 Appellant, )  
 )  
 v. )  
 )  
 STATE OF FLORIDA, )  
 )  
 Appellee. )  
\_\_\_\_\_)

Case No. 2D09-3145

Opinion filed May 20, 2011.

Appeal from the Circuit Court for  
Hillsborough County; Ashley B. Moody,  
Judge.

James Marion Moorman, Public  
Defender, and Judith Ellis, Assistant  
Public Defender, Bartow, for Appellant.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Tonja Rene Vickers,  
Assistant Attorney General, Tampa,  
for Appellee.

KELLY, Judge.

T.V.W. appeals the trial court's order withholding adjudication and placing  
him on probation for battery. The State correctly concedes that the trial court erred in

finding T.V.W. guilty of battery as a permissive lesser-included offense to the charge of attempted robbery where the elements of the crime of battery were not charged in the petition for delinquency. N.H.M. v. State, 974 So. 2d 484, 486 (Fla. 2d DCA 2008).

Accordingly, we reverse the order withholding adjudication that finds T.V.W. guilty of battery and remand for further proceedings consistent with this opinion.

Reversed and remanded.

DAVIS and LaROSE, JJ., Concur.