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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

| KIRK MARIANO GUTIERREZ, |) |
|-------------------------|----------------------|
| Appellant, |) } |
| V. |) Case No. 2D12-1707 |
| STATE OF FLORIDA, |) |
| Appellee. |))) |

Opinion filed September 18, 2013.

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

Howard L. Dimmig, II, Public Defender, and Robert D. Rosen, Assistant Public Defender, Bartow, for Appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, and Johnny T. Salgado, Assistant Attorney General, Tampa, for Appellee.

CASANUEVA, Judge.

Kirk Mariano Gutierrez challenges his convictions and sentences for aggravated assault with a firearm and aggravated battery with great bodily harm. He raises three issues of which we find merit only in the third, an error on the sentencing

document that the State concedes. The aggravated battery conviction, a second-degree felony, was erroneously listed as a first-degree felony. Accordingly, we affirm Mr. Gutierrez's convictions and sentences but remand for correction of the sentencing documents.

Affirmed; remanded for correction as noted above.

ALTENBERND and NORTHCUTT, JJ., Concur.