

Third District Court of Appeal

State of Florida

Opinion filed June 12, 2019.

No. 3D18-1188
Lower Tribunal No. 17-23635

Montrell Williams,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, John Schlesinger,
Judge.

Carlos J. Martinez, Public Defender, and Susan S. Lerner, Assistant Public
Defender, for appellant.

Ashley Moody, Attorney General, and Sandra Lipman, Assistant Attorney
General, for appellee.

Before **SALTER, FERNANDEZ and LINDSEY, JJ.**

PER CURIAM.

The defendant, Montrell Williams, appeals the trial court's final judgment of conviction and sentence for burglary, trespass, theft, and criminal mischief. At the

defendant's jury trial, Florida Standard Jury Instruction (Criminal) 3.7, "Plea of Not Guilty; Reasonable Doubt; and Burden of Proof," was not given to the jury, nor was it included in the written jury instructions. The State has confessed error on this point, as it is fundamental error for a trial court to fail to instruct the jury on the contents of Standard Jury Instruction 3.7. Smith v. State, 260 So. 3d 578 (Fla. 3d DCA 2019) ("[T]he trial court's failure to instruct the jury as to Florida Standard Jury Instruction (Criminal) 3.7 Plea of Not Guilty; Reasonable Doubt, and Burden of Proof, or any similar instruction, constituted fundamental error."). Accordingly, we reverse the defendant's conviction and sentence and remand for a new trial.

Reversed and remanded.