

NOT FINAL UNTIL TIME EXPIRES  
TO FILE REHEARING MOTION  
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, 2004

DANIEL ARROYO,

\*\*

Appellant,

\*\*

vs.

\*\* CASE NO. 3D03-1265

THE STATE OF FLORIDA,

\*\*

Appellee.

\*\* LOWER  
TRIBUNAL NO. 00-32394

\*\*

Opinion filed November 24, 2004.

An appeal from the Circuit Court for Miami-Dade County,  
Leonard E. Glick, Judge.

Bennett H. Brummer, Public Defender, and Todd G. Scher,  
Special Assistant Public Defender, for appellant.

Charles J. Crist, Jr., Attorney General, and Thomas C.  
Mielke, Assistant Attorney General, for appellee.

Before COPE and GODERICH, JJ., and NESBITT, Joseph, Senior  
Judge.

PER CURIAM.

The defendant, Daniel Arroyo, appeals from his convictions  
for sexual battery with a deadly weapon, armed burglary with

assault or battery, and armed home invasion robbery. The defendant raises several issues, but we find that only one merits discussion. The defendant properly contends that his conviction for armed home invasion robbery must be vacated as it is subsumed by the greater offense of armed burglary with an assault or battery. Barboza v. State, 786 So. 2d 675 (Fla. 3d DCA 2001); Smith v. State, 741 So. 2d 579 (Fla. 3d DCA 1999). Accordingly, the conviction and suspended sentence for armed home invasion robbery are vacated, and the remaining convictions and sentences are affirmed.