

# Third District Court of Appeal

State of Florida, July Term, A.D. 2012

Opinion filed December 26, 2012.

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No. 3D11-2778  
Lower Tribunal No. 10-36395

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**Mark Noel,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Monica Gordo,  
Judge.

Carlos J. Martinez, Public Defender, and Brian L. Ellison, Assistant Public  
Defender, for appellant.

Pamela Jo Bondi, Attorney General, and Nicholas A. Merlin, Assistant  
Attorney General, and Jacob Addicott, Certified Legal Intern, for appellee.

Before SHEPHERD and ROTHENBERG, JJ., and SCHWARTZ, Senior Judge.

## CONFESSION OF ERROR

ROTHENBERG, J.

The defendant, Mark Noel, appeals the denial of his motion for a judgment of acquittal as to his conviction for first-degree criminal mischief. Noel contends that to sustain a conviction for first-degree criminal mischief, the State was required to prove that the damage to the subject property, which in this case was the victim's vehicle, was greater than \$200. He further submits that the State failed to prove by competent substantial evidence that the damage exceeded \$200, and thus this Court should reverse his conviction for first-degree criminal mischief and remand for the entry of judgment for the reduced crime of second-degree criminal mischief. We agree. Based on our independent review, and the State's proper confession of error, we conclude there was insufficient evidence to establish that the damage exceeded \$200. We, therefore, reverse Noel's conviction for first-degree criminal mischief and remand with instructions to enter judgment for the reduced crime of second-degree criminal mischief. Noel's remaining convictions and sentences should not be disturbed.

Reversed and remanded with instructions.