

IN THE CIRCUIT COURT OF THE FIFTEENTH JUDICIAL CIRCUIT
IN AND FOR PALM BEACH COUNTY, FLORIDA

APPELLATE DIVISION (CRIMINAL): AC
CASE NO.: 502018AP000155AXXXMB
L.T. NO.: 502018MM007692AXXXMB

STEPHEN CHRISTOPHER BATTON II,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

_____ /
Opinion filed: May 15, 2020

Appeal from the County Court in and for Palm Beach County;
Judge Debra Moses Stephens.

For Appellant: Virginia Murphy, Esq.
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PER CURIAM.

Appellant, Stephen Christopher Batton II, appeals his judgment and sentence for one count of Criminal Mischief (under \$200) and one count of Battery (Domestic). Appellant asserts that the trial court erred by convicting him of Battery (Domestic), and that the trial court abused its discretion in precluding him from testifying about alleged prior violent acts involving his father.

We hold that the trial court erred in convicting Appellant of Battery (Domestic), as there

is no such crime in the State of Florida. *Crockett v. State*, 91 So. 3d 872, 872 (Fla. 2d DCA 2012); *Narinesingh v. State*, 27 Fla. L. Weekly Supp. 230a (Fla. 15th Cir. Ct. Apr. 22, 2019). However, we hold that Appellant’s argument concerning prior violent acts was not properly preserved for appeal. *See Lucas v. State*, 568 So. 2d 18, 22 (Fla. 1990) (“A proffer is necessary to preserve a claim . . . because an appellate court will not otherwise speculate about the admissibility of such evidence.”); *Jacobs v. Wainwright*, 450 So. 2d 200, 201 (Fla. 1984) (“The purpose of a proffer is to put into the record testimony which is excluded from the jury so that an appellate court can consider the admissibility of the excluded testimony. Reversible error cannot be predicated on conjecture.”).

Accordingly, we **REMAND** to the trial court to correct Appellant’s judgment and sentence to properly reflect that he was convicted and sentenced to Battery on Count 2, and not Battery (Domestic). We otherwise **AFFIRM** in all other aspects.

SCHER, WEISS, and ARTAU, JJ., concur.

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STEPHEN CHRISTOPHER BATTON II,
Appellant,

Opinion/Decision filed: May 15, 2020

v.

Appeal from the County Court in and for
Palm Beach County, Florida;
Judge Debra Moses Stephens

STATE OF FLORIDA,
Appellee.

Appealed: December 10, 2018

_____ /

DATE OF PANEL: MAY 12, 2020

PANEL JUDGES: SCHER, WEISS, ARTAU

AFFIRMED/REVERSED/OTHER: AFFIRM AND REMAND W/ INSTRUCTIONS

DECISION BY: PER CURIAM

CONCURRING:)	DISSENTING:)	CONCURRING SPECIALLY:)
)	With/Without Opinion)	With/Without Opinion)
)))
<u>/s/ Rosemarie Scher</u>)	_____)	_____)
DATE: 5/15/20	J.)		J.)		J.)
)))
<u>/s/ Daliah H. Weiss</u>)	_____)	_____)
DATE: 5/15/20	J.)		J.)		J.)
)))
<u>/s/ Edward L. Artau</u>)	_____)	_____)
DATE: 5/15/20	J.)		J.)		J.)