

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

APPELLATE DIVISION (CRIMINAL): AC  
CASE NO.: 2015-AP-900008-AXXX-MB  
L.T. NO.: 2014-MM-013749-AXXX-MB

LENSKY JEANBART,  
Appellant,

v.

STATE OF FLORIDA,  
Appellee.

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Opinion filed: **MAY 31 2016**

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

For Appellant: Benjamin Eisenberg, Assistant Public Defender  
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PER CURIAM.

Upon confession of error for failure to ensure a unanimous verdict this case is reversed and remanded for a new trial.

The State charged Defendant by information with "Domestic Battery." The case proceeded to a one-day jury trial. At trial, the State presented two witnesses: the victim, Gregory Narcisse ("Gregory") and Matthew Narcisse ("Matthew"), Gregory and Defendant's younger brother. Gregory essentially testified that Defendant attacked him on two different occasions. Matthew testified that Defendant and Gregory fought twice on the day in question, Defendant

instigated the fights, and he saw Defendant attack Gregory during the second altercation. The defense presented only one witness—Defendant. Defendant’s version of events differed considerably; he testified that he did not attack Gregory and insinuated that Gregory had fabricated the story out of jealousy. After deliberating, the jury found Defendant guilty of “Domestic Battery,” but used a verdict form that did not differentiate between the first and second altercation. The Court adjudicated Defendant guilty of “Domestic Battery” and sentenced him to 180 days in the Palm Beach County Jail. This timely appeal followed shortly thereafter.

Defendant argues that presenting evidence of two separate altercations separated in time to support a single charge of Battery constituted fundamental error. Defendant is correct. *See Chaffin v. State*, 121 So. 3d 608, 615 (Fla. 4th DCA 2013); *Perley v. State*, 947 So. 2d 672, 675 (Fla. 4th DCA 2007). The State also concedes error. Accordingly, the matter is reversed and remanded for a new trial.<sup>1</sup>

KELLEY, J. MARX, and KASTRENAKES, JJ., concur.

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<sup>1</sup> The Court declines to address any of the other issues raised, but notes that if after being retried Defendant is again found guilty, his judgment should reflect the charge of Battery rather than “Domestic Battery.” *See Crockett v. State*, 91 So. 3d 872, 872 (Fla. 2d DCA 2012) (noting that “domestic violence battery” is a nonexistent offense and defendant should have been adjudicated guilty of Battery).