

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2008

ABOUSLAM A. AHMED,

Appellant,

v.

CASE NO. 5D07-2514

STATE OF FLORIDA,

Appellee.

Opinion filed July 3, 2008

Appeal from the Circuit Court
for Orange County,
Jeffrey Fleming, Judge.

James S. Purdy, Public Defender, and
Thomas J. Lukashow, Assistant Public
Defender, Daytona Beach, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and L. Charlene Matthews,
Assistant Attorney General, Daytona
Beach, for Appellee.

LAWSON, J.

Abouslam A. Ahmed appeals from his convictions following a jury trial on two counts of Attempted First Degree Murder with a Firearm; one count of Aggravated Battery Causing Great Bodily Harm (with a Firearm); and two counts of Aggravated Assault With A Firearm. The State concedes that the trial court committed fundamental error when it failed to instruct the jury on justifiable and excusable homicide. See, e.g.,

Fletcher v. State, 828 So. 2d 460, 461-62 (Fla. 5th DCA 2002) ("It is well-established that trial courts are required to read the instructions on justifiable and excusable homicide in all murder and manslaughter cases Failure to read these instructions constitutes fundamental error, even if there is no basis in fact for the charge.") (citations omitted). This was the only issue raised on appeal. Accordingly, we reverse Ahmed's convictions and sentences on the two attempted murder charges and remand for additional proceedings as to those two counts. The remaining convictions and sentences are affirmed.

REVERSED IN PART, AFFIRMED IN PART, AND REMANDED.

PLEUS and ORFINGER, JJ., concur.