

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

JANUARY TERM 2010

GABRIEL ALBERTO VALENTIN-RODRIGUEZ,

Appellant,

v.

Case No. 5D08-749

STATE OF FLORIDA,

Appellee.

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Opinion filed April 16, 2010

Appeal from the Circuit Court
for Osceola County,
Scott Polodna, Judge.

James S. Purdy, Public Defender, and
Susan A. Fagan, Assistant Public
Defender, Daytona Beach, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Douglas T. Squire,
Assistant Attorney General, Daytona
Beach, for Appellee.

SAWAYA, J.

Gabriel Alberto Valentin-Rodriguez appeals his judgment and sentence after a jury found him guilty of four counts of sexual battery and two counts of false imprisonment. The trial court gave him two concurrent life sentences on two counts of sexual battery, with a mandatory minimum sentence of twenty-five years as a dangerous sexual felony offender and fifteen years concurrent in prison on one count of

false imprisonment. Defendant argues: 1) the court erred by allowing use of the word ‘victim’ to describe the victim of the crimes; 2) the court erred in permitting testimony that Defendant threatened suicide; 3) the court gave faulty jury instructions and verdict forms; and 4) two adjudications for false imprisonment violate double jeopardy.

We affirm as to all issues except the last. As to that issue, the State concedes error. Our review of the record confirms that the concession is proper. Accordingly, we reverse Defendant’s conviction for count one, which charges one of the false imprisonment offenses. We remand this case to the trial court to prepare an amended judgment striking Defendant’s conviction for that count. Resentencing will not be necessary because it appears that the trial court did not sentence Defendant on that count in anticipation of reversal based on double jeopardy grounds.

AFFIRMED in part; REVERSED in part; and REMANDED.

ORFINGER and JACOBUS, JJ., concur.