

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

JANUARY TERM 2011

PEARL MARIE CROFT,
Appellant,

v.

Case No. 5D09-2570

STATE OF FLORIDA,
Appellee.

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Opinion filed May 13, 2011.

Appeal from the Circuit Court
for Orange County,
Walter Komanski, Judge.

James S. Purdy, Public Defender,
and Rose M. Levering, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and L. Charlene Matthews,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

The Appellant, Pearl Marie Croft, was convicted by a jury of attempted first-degree murder. She was sentenced to life imprisonment and designated a prison releasee reoffender. In this direct appeal, Croft challenges the legality of her sentence. She does not contest the PRR designation. Rather, she argues that the offense should have been classified as a first-degree felony, not a life felony. We agree and reverse.

The arguments at the hearing on Croft's rule 3.800(b)¹ motion centered around whether there was a valid basis for reclassifying the offense under section 775.087, Florida Statutes. The arguments on appeal maintain that focus. However, we think the record is clear that the parties and the court were, at the time of sentencing, simply mistaken as to the degree of the offense. That is, they were operating under the assumption that attempted murder is a life felony, when that offense is actually a first-degree felony, punishable by a maximum of 30 years' imprisonment. See §§ 775.082, 777.04(4)(b), 782.04(1)(a), Fla. Stat. (2008). Having thoroughly considered the matter, we also conclude there was no valid basis for reclassification in this case, particularly in the absence of a special verdict reflecting sufficient findings by the jury.

Accordingly, the life sentence imposed for attempted first-degree murder is reversed. The cause is remanded for resentencing on that count, consistent with this opinion. The judgment and sentence are affirmed in all other respects.

AFFIRMED in part; REVERSED in part; and REMANDED for resentencing.

MONACO, C.J., EVANDER and JACOBUS, JJ., concur.

¹ Fla. R. Crim. P. 3.800(b).