

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

JULY TERM 2011

PACU RIVERA-RIVERA,

Appellant,

v.

Case No. 5D10-2516

STATE OF FLORIDA,

Appellee.

\_\_\_\_\_ /

Opinion filed July 22, 2011

Appeal from the Circuit Court  
for Osceola County,  
Jon B. Morgan, Judge.

James S. Purdy, Public Defender, and  
Kathryn Rollison Radtke, Assistant Public  
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Douglas T. Squire,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

PER CURIAM.

We affirm without discussion, Pacu Rivera-Rivera's convictions for robbery with a firearm, false imprisonment with a firearm, aggravated assault with a firearm, attempted robbery, aggravated battery with a firearm, and false imprisonment with a weapon. However, double jeopardy principles preclude Rivera's separate convictions for battery and simple assault. As to the battery conviction, the State correctly concedes error, as

the battery was subsumed by the greater offense of aggravated battery. See Skriver v. State, 861 So. 2d 1290 (Fla. 5th DCA 2004). For the reason explained in Latimer v. State, 44 So. 3d 1239 (Fla. 5th DCA 2010), we also vacate the simple assault conviction.

Accordingly, we reverse both the battery and assault convictions and remand with instructions to vacate those convictions.

AFFIRMED in part; REVERSED in part; and REMANDED.

ORFINGER, C.J., PALMER and EVANDER, JJ., concur.