



Vathis v. State

729 So.2d 453 (1999) | Cited 0 times | District Court of Appeal of Florida | March 12, 1999

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF FILED

An appeal from the Circuit Court for Leon County. L. Ralph Smith, Judge.

Appellant argues that the evidence was insufficient to prove the elements of capital sexual battery and lewd, lascivious, or indecent assault. Even though the defense put on evidence, appellant was under no obligation thereafter to renew the motion for judgment of acquittal he made at the close of the state's evidence. See *Morris v. State*, 721 So. 2d 725, 726 (Fla. 1998). But that motion did not preserve the sufficiency points now argued on appeal. See, e.g., *Clark v. State*, 635 So. 2d 68, 68-69 (Fla. 1st DCA 1994); *Showers v. State*, 570 So. 2d 377, 378 (Fla. 1st DCA 1990); *Cornwell v. State*, 425 So. 2d 1189, 1190 (Fla. 1st DCA 1983). The motion for judgment of acquittal made at the close of the state's case raised only the issue of the perpetrator's identity. See *G.W.B. v. State*, 340 So. 2d 969, 970 (Fla. 1st DCA 1976), cert. denied, 348 So. 2d 948 (Fla. 1977). The evidence of appellant's identity was more than sufficient.

AFFIRMED.

ERVIN, BOOTH, and BENTON, JJ., CONCUR.

