

# FLORIDA LAW WEEKLY SEX CRIMES EDITION BY DENNIS NICEWANDER

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Nunez v. State, 32 Fla. L. Weekly D1540 (Fla. 4<sup>th</sup> DCA 2007):

Evidence that defendant offered cocaine to 14-year-old victim was admissible as inextricably intertwined with charged crime of lewd or lascivious molestation, where victim testified that defendant knocked on apartment door and made his way past her inside apartment after she opened it, defendant offered cocaine to victim, victim refused, defendant asked victim if she wanted to have sex with him, victim refused, and defendant chased her into bedroom, pushed her on bed, and committed sexual touching.

Harroll v. State, 32 Fla. L. Weekly D1533 (Fla. 3<sup>rd</sup> DCA 2007):

Imposition of mandatory condition of sex-offender probation of wearing global positioning system (GPS) monitor did not violate double jeopardy principles, even though condition was premised on defendant's prior, rather than current, convictions.

“Under Florida Rule of Criminal Procedure 3.800(c), the trial court may modify an incomplete sentence within sixty days of its imposition to include any provision of chapter 948 which it failed to originally pronounce. Where the defendant's sentence is incomplete because it omits a mandatory condition of probation under chapter 948 as part of the sex-offender sentence, the trial court may properly modify the defendant's sentence within sixty days to include the condition mandated by chapter 948.”

Williams v. State, 32 Fla. L. Weekly S347 (Fla. 2007)

Evidence of victim's pregnancy was sufficiently relevant in first-degree felony murder trial to totality of the circumstances and to specifically proving the underlying felony, attempted sexual battery; defendant was not the father of victim's child, and thus evidence of victim's pregnancy was probative to demonstrate victim's lack of consent to any type of sexual conduct with, or sexual advance by, defendant.

Evidence was sufficient to support first-degree felony murder charge based on underlying felony of attempted sexual battery; evidence showed that victim voluntarily opened the door for the attacker, and given her advanced state of pregnancy, was likely clothed when she did so, yet when police arrived, victim appeared at the door completely nude and was attempting to cover her nudity, police discovered at the crime scene victim's blood-stained shorts and panties on the bed under some bloody sheets in a condition that

indicated they were removed either during or in close proximity to the attack, victim had bite marks on her bare breast and back, and in the general area of her groin, and victim had made an unsolicited statement to officer that she had been “raped.”

Macias v. State, 32 Fla. L. Weekly D1528 (Fla. 4<sup>th</sup> DCA 2007):

Charged and collateral offenses were strikingly similar and shared some unique characteristics, as element for admission of collateral offense as *Williams* other-act evidence, in prosecution for sexual battery by a person of control or authority; victim of charged offense and alleged victim of collateral offense were participants in county adult drug court program for which defendant was program supervisor, victims were close in age and appearance, and defendant had similar conversations with victims, telling them that if they “took care of him” or did “what he needed [them] to do,” he would help them in drug court.