

FLORIDA LAW WEEKLY SEX CRIMES EDITION BY DENNIS NICEWANDER

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Wightman v. State, 33 Fla. L. Weekly D1166 (Fla. 2d DCA 2008):

Multiple uncharged acts of sexual battery upon a child victim were not relevant as inextricably intertwined evidence.

Evidence was not admissible as evidence of crimes or acts of child molestation under section 90.404(2)(b)(1), because defendant was not given pretrial notice of intent to use such evidence.

Binns v. State, 33 Fla. L. Weekly D1126 (Fla. 4th DCA 2008):

The crimes of lewd and lascivious acts and sexual battery each contain an element that the other does not; therefore a conviction for sexual battery and lewd and lascivious act arising out of the same episode would not violate double jeopardy.

Defendant's conviction on two counts of lewd and lascivious acts against his daughter, arising out of incident in which he touched or rubbed daughter's vaginal area with his hands and touched her breast with his mouth, violated double jeopardy; elements of both counts were identical, and events occurred in a single criminal episode.

State v. Brocca, 33 Fla. L. Weekly D1156 (Fla. 3rd DCA 2008):

Statements made by mentally disabled adult to his mother describing alleged **sexual** assault were nontestimonial in nature, and thus were not subject to the Confrontation Clause; the statements were not made to a government agent or under police investigation.

Statements made by mentally disabled adult to interviewer describing alleged **sexual** assault were testimonial in nature, and thus were subject to the Confrontation Clause; statement were made to a government agent, while there was an on going emergency, and the purpose of the interview was to establish or prove past events in connection with the criminal prosecution.

Collier v. State, 33 Fla. L. Weekly D1103 (Fla. 1st DCA 2008):

Minor victim's pre-trial statements, which were later recanted during her in-trial

testimony, were insufficient to support defendant's conviction absent corroborating evidence of defendant's guilt.