

FLORIDA LAW WEEKLY SEX CRIMES EDITION BY DENNIS NICEWANDER

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Blow v. State, 32 Fla. L. Weekly D2680 (Fla. 2d DCA 2007):

Plain meaning of the language “willfully and unlawfully cages a child,” as contained in aggravated child abuse statute, limits the statute's application to confining a child in some type of wire or bar boxlike structure or a small restrictive enclosure.

Cheshire v. State, 32 Fla. L. Weekly D2718 (Fla. 1st DCA 2007):

Trial court violated procedural due process rights of sex offenders by communicating with the Assistant State Attorney, without notice to offenders' counsel, after Department of Corrections sent notice to the court requesting direction on whether offenders should continue to be designated as sexual offenders, or whether they should be designated as sexual predators.

Esteban v. State, 967 So.2d 1095 (Fla. 4th DCA 2007):

For evidence that a victim of sexual battery was a prostitute to be admissible, the defendant must make a sufficient showing through an offer of proof on the record or by other appropriate means, that the evidence of prostitution bears materially on the issues and that without this evidence, the defendant's ability to present a defense will be critically hampered; if the defendant makes a sufficient showing, then the trial court should engage in a balancing test to weigh the probative value of the evidence against the unfair prejudice to the victim and the state's case to determine if it should be admitted.

Reputation evidence that victim was a prostitute was irrelevant at trial for sexual battery, even though defendant sought to introduce evidence to suggest that someone else might have perpetrated charged crime; victim's reputation did not tend to prove that victim was acting as a prostitute and was attacked by one of her customers.

Examining physician's testimony that victim told him that she knew her attacker was inadmissible at sexual-battery trial under exception to hearsay rule for statements made for purposes of medical diagnosis or treatment; physician noted that he did not usually ask for such information, and victim's statement was not made for purpose of medical diagnosis.

Moraes v. State, 967 So.2d 1100 (Fla. 4th DCA 2007):

Change in law enhancing the reporting requirements and penalties for sexual offenders, after plea was accepted but before sentencing, constituted “good cause” supporting defendant’s pre-sentence motion to withdraw nolo contendere plea to a charge of lewd or lascivious exhibition in the presence of a child under sixteen.