

IN THE CIRCUIT COURT, SEVENTH
JUDICIAL CIRCUIT, IN AND FOR
FLAGLER COUNTY, FLORIDA

STATE OF FLORIDA,

v.

JAMES ALBERT TAYLOR,

Defendant.

CASE NO.: 2014-00043-CFFA
JUDGE DENNIS P. CRAIG

AMENDED MOTION FOR NEW TRIAL AND JUDGEMENT OF ACQUITTAL

COMES NOW the Defendant, James Albert Taylor, by and through the undersigned Assistant Public Defender, pursuant to Rules 3.590 and 3.600, Florida Rules of Criminal Procedure, and respectfully requests this Honorable Court to grant a new trial in the above-styled cause. Defendant states the following grounds for this motion:

- 1) This Court erred in not granting Defendant's Motion for Judgment of Acquittal made at the close of the State's case.
- 2) This Court erred in not granting Defendant's Motion for Judgment of Acquittal made at the close of all the evidence.
- 3) The verdict is contrary to the weight of the evidence.
- 4) The verdict is contrary to the law.
- 5) When the only charged allegation was a step-father's momentary swipe of a hand over the clothed upper chest area of his step daughter, it is reversible error to allow evidence of the uncharged capital crime of sexual penetration of an 11 year old child since this completely prejudices the jury over all hope and is so dissimilar and overwhelmingly prejudicial as to totally undermine Mr. Taylor's right to a fair trial.
- 6) When the only charged allegation was a step-father's momentary swipe of a hand over the clothed upper chest area of his step daughter, the trial court erred by failing to grant the defense motion for judgment of acquittal.
- 7) If the evidence was sufficient to overcome JOA, then the L&L Molestation statute is unconstitutionally vague as it does not define conduct sufficiently to determine what is "breast" and what is "upper chest" such that no reasonable person could ever settle on a precise definition.

8) If the evidence was sufficient to overcome JOA, then the L&L Molestation statute is unconstitutionally overbroad in that it criminalizes the act of a parental figure touching his child at night to make sure they are safe in their beds.

9) Error in overruling defense objections to the State's improper arguments in rebuttal closing

10) Error in failing to allow impeachment testimony that State witness was asked to lie by the prosecutor.

11) Error in standard jury instructions for similar fact evidence.

12) State witnesses had contact with the jury or juror.

WHEREFORE, the Defendant respectfully requests this Honorable Court grant a new trial for the reasons cited herein.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by delivery to: Joseph Ledonne, Assistant State Attorney, 1769 East Moody Blvd., Bldg. #1, Bunnell, FL 32110, and to the defendant, on May 1, 2017.

/s/ Regina Nunnally

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