

Florida Statutes -- Offense Charged

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F.S. § 784.045 -- Aggravated Battery (THE CHARGE)

(1)(a) Text

A person commits aggravated battery who, in committing battery:

- (a) Intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or*
- (b) Uses a deadly weapon.*

(2) Penalty

* **Second degree felony** -- punishable as provided in § 775.082, § 775.083, or § 775.084

* Maximum: **15 years** state prison (standard); **20 years** if scored under sentencing guidelines with enhancements

* **NOTE:** Marquis received 20 years -- this exceeds the standard 15-year max for a 2nd degree felony.

Must investigate: Was a habitual offender enhancement applied (§ 775.084)? Was there a weapon enhancement? A 10-20-Life enhancement (§ 775.087)? Or mandatory minimum under another provision?

Elements the State Must Prove (Jury Instructions 8.4(a))

1. Defendant intentionally touched or struck the victim against their will; AND
2. Defendant intentionally or knowingly caused great bodily harm, permanent disability, or permanent disfigurement

Key Defense Points

- * "Intentionally or knowingly" -- specific intent element; recklessness is NOT sufficient
- * Must prove BOTH the battery AND the aggravating factor (great bodily harm)
- * Self-defense is a COMPLETE defense -- if established, negates the unlawful touching element
- * The victim's injuries must constitute "great bodily harm" -- this is a question of fact for the jury

F.S. § 784.03 -- Battery (lesser included offense)

(1)(a) The offense of battery occurs when a person:

- 1. Actually and intentionally touches or strikes another person against the will of the other; or*
- 2. Intentionally causes bodily harm to another person.*

* **First degree misdemeanor** -- max 1 year jail

* **Relevance:** If jury finds battery but NOT great bodily harm -> lesser included verdict

* Defense should ALWAYS request lesser included instruction

F.S. § 784.041 -- Felony Battery (lesser included)

(1) A person commits felony battery if he or she:

- (a) Actually and intentionally touches or strikes another person against the will of the other; and*
- (b) Causes great bodily harm, permanent disability, or permanent disfigurement.*

- * **Third degree felony** -- max 5 years
 - * **Relevance:** Same as aggravated battery but WITHOUT the specific intent to CAUSE the harm
 - * If defendant didn't INTEND to cause great bodily harm but it resulted -> felony battery, not aggravated
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F.S. § 775.082 -- Penalties; Applicable to Felonies

Degree Max Prison Max Probation
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Capital Death/Life N/A
Life Felony Life or 40 years N/A
1st Degree 30 years 30 years
1st Degree (PBL) Life Life
2nd Degree **15 years** **15 years**
3rd Degree 5 years 5 years

Critical Issue: 20-Year Sentence on 2nd Degree Felony

The statutory max for a 2nd degree felony is 15 years. A 20-year sentence requires:

- * **Habitual Felony Offender (§ 775.084(4)(a))** -> allows up to 30 years for 2nd degree
 - * **Habitual Violent Felony Offender (§ 775.084(4)(b))** -> allows up to 30 years, mandatory min
 - * **Violent Career Criminal (§ 775.084(4)(d))** -> up to 40 years
 - * **Prison Releasee Reoffender (§ 775.082(9))** -> mandatory 15 years for agg battery
 - * **10-20-Life (§ 775.087)** -> if firearm/weapon was used
 - * **MUST DETERMINE** which enhancement was applied -- affects appeal strategy significantly
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F.S. § 775.083 -- Fines

Degree Max Fine
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Capital/Life \$15,000
1st Degree \$10,000
2nd Degree **\$10,000**
3rd Degree \$5,000

F.S. § 775.084 -- Habitual Felony Offenders and Habitual Violent Felony Offenders

(1)(a) Habitual Felony Offender Criteria

Defendant must have previously been convicted of:

- * Two or more prior felonies; AND
- * Committed within 5 years of the current offense or release from prison (whichever is later)

(1)(b) Habitual Violent Felony Offender Criteria

Defendant must have been previously convicted of:

- * A felony or an attempt/conspiracy to commit: arson, sexual battery, robbery, kidnapping, aggravated child abuse, aggravated abuse of elderly, aggravated assault with deadly weapon, **murder**, manslaughter, aggravated manslaughter, **aggravated battery**, or any felony involving use of firearm/weapon, carjacking, home invasion robbery, or burglary of occupied dwelling

(4) Enhanced Penalties

| Category | 2nd Degree Felony Enhancement |

|-----|-----|

| Habitual Felony Offender | Up to 30 years |

| Habitual Violent Felony Offender | Up to 30 years, mandatory minimum |

| Three-Time Violent Felony Offender | Mandatory life without parole |

| Violent Career Criminal | Up to 40 years |

****Defense Investigation Priority****

- * Pull complete criminal history for Marquis
- * Determine if habitual offender finding was made at sentencing
- * Challenge prior convictions if used for enhancement (were they properly proven?)
- * Verify 5-year window calculation is correct

F.S. § 775.087 -- Possession or Use of Weapon; Aggravated Battery (10-20-Life)

During the commission of certain felonies including aggravated battery:

- *Possession of firearm -> 10-year mandatory minimum*
- *Discharge of firearm -> 20-year mandatory minimum*
- *Death or great bodily harm from discharge -> 25 years to life mandatory minimum*

Relevance

- * Was a weapon alleged in Marquis's case?
- * If so, 10-20-Life may explain the 20-year sentence
- * ****Critical:**** If the weapon was the Uber vehicle itself, challenge whether a vehicle constitutes a "deadly weapon" under the statute

These statutes are current through the 2025 Florida Legislative Session. Always verify with the official Florida Legislature website: www.leg.state.fl.us