# CAPTION: STATE V. WOODARD

**06-16-23**

APPEAL NOS.: C-220364

 C-220365

TRIAL NOS.: B-2103506B

 B-2102994

KEY WORDS: JURY INSTRUCTIONS – LESSER-INCLUDED OFFENSE – EVIDENCE — SUFFICIENCY – FELONIOUS ASSAULT – COMPLICITY

SUMMARY:

Defendant’s conviction for felonious assault under a complicity theory was supported by sufficient evidence where testimony and video evidence established that defendant, after being engaged in a dispute with the victim, sought his brother’s assistance to shoot the victim.

The trial court erred in refusing to instruct the jury on the lesser-included offense of misdemeanor assault where the jury could have reasonably acquitted defendant of felonious assault for the shooting, but could have convicted him of misdemeanor assault for his punch to the victim’s face.

JUDGMENT: REVERSED AND CAUSE REMANDED in C-220364; APPEAL DISMISSED IN C-220365

JUDGES: OPINION by CROUSE, P.J.; ZAYAS and KINSLEY, JJ., CONCUR.