**CAPTION: STATE V. THOMPKINS**

**07-28-23**

APPEAL NO.: C-220307

TRIAL NOS.: B-2001107

B-2201279

KEY WORDS: AGGRAVATED ASSAULT – INVOLUNTARY MANSLAUGHTER – LESSER INCLUDED – PROVOCATION – ABUSE OF DISCRETION – JURY INSTRUCTIONS – INFERIOR DEGREE

SUMMARY:

Where defendant reached for his weapon before he was struck by the victim, there was insufficient provocation for the trial court to instruct the jury on the inferior offense of aggravated assault.

Where defendant was aware that his conduct would likely cause injury or death to others, the defendant had the requisite mens rea to commit murder and the trial court did not err in denying the defendant’s request for a jury instruction on involuntary manslaughter.

JUDGMENT: affirmed

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