

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

WILLIAM JOSEPH THEUS,  
Appellant,

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED.

v.

CASE NO.: 1D03-4817

STATE OF FLORIDA,

Appellee.  
\_\_\_\_\_ /

Opinion filed March 7, 2006.

An appeal from the Circuit Court for Alachua County.  
Maurice V. Giunta, Judge.

Nancy A. Daniels, Public Defender, and Janice G. Scott, Assistant Public  
Defender, Tallahassee, for Appellant.

Charlie Crist, Attorney General, and Daniel A. David, Assistant Attorney General,  
Tallahassee, for Appellee.

PER CURIAM.

William Joseph Theus appeals his conviction and sentence for four counts of  
lewd and lascivious battery on a child less than 16 years of age. Among the issues  
raised on appeal is the claim that the trial court erred in allowing a state witness,

Marilyn Barnes, a member of the Child Protection Team, to refer on direct examination to a scientific article which supported Barnes' decision not to conduct a physical examination of the victim of the batteries. Appellant timely objected to Barnes' reference to the article, but the objection was denied. The trial court erred. See *Liberatore v. Kaufman*, 835 So. 2d 404 (Fla. 4<sup>th</sup> DCA 2003)(holding that an expert cannot, on direct examination, bolster his testimony by testifying that a treatise agrees with his opinion). However, in the context of this case, we hold the error is harmless. See *State v. DiGuilio*, 491 So. 2d 1129 (Fla. 1986). The remaining issues raised on appeal are without merit.

Accordingly, appellant's judgment of conviction and sentence are AFFIRMED.

WOLF, VAN NORTWICK AND BROWNING, JJ., CONCUR.