

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

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

PABLO BURGOS,

Appellant,

v.

CASE NO. 1D05-4207

STATE OF FLORIDA,

Appellee.

Opinion filed October 11, 2006.

An appeal from the Circuit Court for Okaloosa County.

G. Robert Barron, Judge.

Nancy A. Daniels, Public Defender, and Archie F. Gardner, Jr., Assistant Public Defender, Tallahassee, for Appellant.

Charlie Crist, Attorney General, and Alan R. Dakan, Assistant Attorney General, Tallahassee, for Appellee.

BROWNING, J.

Pablo Burgos (Appellant) was charged with trafficking in cocaine in an amount of 28 grams or more and less than 200 grams pursuant to section 893.03(2)(a)4., Florida Statutes (2003), or any mixture containing 28 grams or more but less than 200

grams of cocaine pursuant to section 893.135(1)(b)1.a., Florida Statutes (2003). Appellant moved to suppress the drug evidence on the ground that as an overnight guest in the residence searched pursuant to a search warrant, he had a reasonable expectation of privacy in the luggage in the guest bedroom inside which the drugs were found. See Minnesota v. Olson, 495 U.S. 91, 96-97 (1990). Upon the denial of his motion to suppress, Appellant entered a no-contest plea to the charged offense and was adjudicated and sentenced accordingly. He expressly reserved the right to appeal the denial of his motion to suppress. See § 924.051(4) & -.06(3), Fla. Stat. (2003). Given the testimony that the officers discovered Appellant sleeping in the guest bedroom and that the closed luggage was next to Appellant, but that Appellant affirmatively denied any knowledge or ownership of the luggage searched, he lacked any legitimate expectation of privacy, and the trial court correctly found that Appellant lacked standing to challenge the search. See Olson, 495 U.S. at 96-97; United States v. Salvucci, 448 U.S. 83, 91-92 (1980). We AFFIRM the judgment and sentence.

BARFIELD, C. J., and VAN NORTWICK, J., CONCUR.