

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

REGINALD EVANS KIRTON,

Appellant,

v.

CASE NO. 1D09-0402

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed July 21, 2009.

An appeal from the Circuit Court for Escambia County.
Paul A. Rasmussen, Judge.

Nancy A. Daniels, Public Defender, and David P. Gauldin, Assistant Public
Defender, Tallahassee, for Appellant.

Bill McCollum, Attorney General, and Thomas H. Duffy, Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

In this direct criminal appeal, we agree with appellant that the state
committed a discovery violation when it failed to disclose a recording of a
conversation between appellant and his mother made while appellant was in jail

awaiting trial, and that the trial court failed to comply with the requirements of Richardson v. State, 246 So. 2d 771 (Fla. 1971). However, having carefully reviewed the record, we are satisfied to the exclusion of all reasonable doubt “that the defense was not procedurally prejudiced by the discovery violation.” Scipio v. State, 928 So. 2d 1138, 1150 (Fla. 2006) (citing State v. Schopp, 653 So. 2d 1016, 1021 (Fla. 1995)). Accord Smith v. State, 7 So. 3d 473, 506-07 (Fla. 2009). Accordingly, we affirm.

AFFIRMED.

WOLF, WEBSTER and CLARK, JJ., CONCUR.