

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

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

ALEX JONES,

Appellant,

v.

Case No. 5D19-2771

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed December 31, 2020

Appeal from the Circuit Court
for Orange County,
Elaine A. Barbour, Judge.

James S. Purdy, Public Defender, and
Steven N. Gosney, Assistant Public
Defender, Daytona Beach, for Appellant.

Ashley Moody, Attorney General,
Tallahassee, and L. Charlene Matthews,
Assistant Attorney General, Daytona
Beach, for Appellee.

EVANDER, C.J.

Alex Jones appeals the judgment and sentence entered after he was convicted of second-degree murder with a firearm. He argues that certain comments made by the prosecutor during opening statement and closing argument constituted fundamental error. We agree that, in discussing Jones' self-defense claim, it was clearly improper for

the prosecutor to suggest to the jury that it should consider whether the victim “deserved to die” or “needed to die.” However, after considering the totality of the record, we cannot conclude that the improper comments “reach[ed] down into the validity of the trial itself to the extent that a verdict of guilty could not have been obtained without the alleged error.” *Johnson v. State*, 238 So. 3d 726, 740 (Fla. 2018) (quoting *Kilgore v. State*, 688 So. 2d 895, 898 (Fla. 1996)).

AFFIRMED.

HARRIS and SASSO, JJ., concur.