

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

JULY TERM 2003

ROBERT L. BROTHERS, III

Appellant,

v.

CASE NO. 5D02-3169

STATE OF FLORIDA

Appellee.

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Opinion filed September 12, 2003

Appeal from the Circuit Court
for Brevard County,
W. David Dugan, Judge.

James B. Gibson, Public Defender, and Scott Ragan,
Assistant Public Defender, Daytona Beach, for
Appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee,
and Lori N. Hagan, Assistant Attorney General,
Daytona Beach, for Appellee.

MONACO, J.

The appellant, Robert L. Brothers, III, was convicted at jury trial of robbery, in violation of section 812.13(2)(c), Florida Statutes (2002), based largely on circumstantial evidence.

The sole issue on appeal is whether the trial court erred in denying the motion of Mr. Brothers for a judgment of acquittal.

When the evidence against a criminally accused person is circumstantial, a motion for judgment of acquittal should be granted if the state fails to present evidence from which the jury can exclude every reasonable hypothesis except that of guilt. See *State v. Law*, 559 So.

2d 187, 188 (Fla. 1989); *Wilson v. State*, 493 So.2d 1019, 1022 (Fla. 1986); *Everett v. State*, 831 So. 2d 738 (Fla. 4th DCA 2002). Upon careful review of the transcript, we have concluded that the State introduced sufficient competent evidence that was inconsistent with the theory of events put forth by Mr. Brothers. The trial judge was, therefore, correct in denying the motion seeking a judgment of acquittal.

AFFIRMED.

GRIFFIN and THOMPSON, JJ., concur.