

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

JULY TERM 2006

DANNY BLACKWELL,

Appellant,

v.

Case No. 5D05-4441

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed December 22, 2006

Appeal from the Circuit Court
for St. Johns County,
J. Michael Traynor, Judge.

James S. Purdy, Public Defender, and
Dee Ball, Assistant Public Defender,
Daytona Beach, for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Mary G. Jolley, Assistant
Attorney General, Daytona Beach, for
Appellee.

PER CURIAM.

AFFIRMED. See Fitzpatrick v. State, 900 So. 2d 495, 517-18 (Fla. 2005)
(holding that the test for suppression of an out-of-court identification is (i) whether the
police used an unnecessarily suggestive procedure to obtain the out-of-court
identification; and (ii) if so, considering all the circumstances, whether the suggestive
procedure gave rise to a substantial likelihood of irreparable misidentification).

THOMPSON, ORFINGER and TORPY, JJ., concur.