

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

JANUARY TERM 2011

ALTON BEAUVAIS,

Appellant,

v.

Case No. 5D09-2377

STATE OF FLORIDA,

Appellee.

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Opinion filed March 25, 2011

Appeal from the Circuit Court
for Osceola County,
Scott Polodna, Judge.

James S. Purdy, Public Defender, and
Rose M. Levering, Assistant Public
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Carmen F. Corrente,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

We affirm Appellant's convictions for first-degree murder and robbery with a deadly weapon without further discussion. We reverse the conviction for burglary of a dwelling because the circular jury instruction constituted fundamental error. *Lee v. State*, 958 So. 2d 521 (Fla. 2d DCA 2007). We remand for a new trial on the burglary count.

AFFIRMED in part; REVERSED in part, and REMANDED.

PALMER, TORPY and LAWSON, JJ., concur.