

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

JOSHUA LINGEBACH,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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

CASE NO. 1D08-0351

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Opinion filed September 22, 2008.

An appeal from the Circuit Court for Duval County.  
Charles W. Arnold, Judge.

Nancy A. Daniels, Public Defender, and Paula S. Saunders, Assistant Public Defender,  
Tallahassee, for Appellant.

Bill McCollum, Attorney General, Michael T. Kennett and Thomas D. Winokur,  
Assistant Attorneys General, Tallahassee, for Appellee.

WOLF, J.

We affirm appellant's conviction. We write to let the trial court and the prosecutor know that a statement made during closing argument by the prosecutor was inappropriate. During closing argument, the prosecutor made the following remark:

[A]t the end of the day you might say to yourself: What is this really all about with the evidence? What are we doing here? Why are we sitting in the box as jurors?

The reason we're here is because this defendant doesn't want to take responsibility or be accountable for his actions.

This comment constituted an inappropriate comment on appellant's right to a jury trial. Were it not for the overwhelming evidence of guilt which convinces us that the error could not have reasonably affected or contributed to the verdict, we would be required to reverse. See State v. DiGuilio, 491 So. 2d 1129 (Fla. 1986).

POLSTON and ROBERTS, JJ., CONCUR.