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

WALTER DORTLY,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

_____/

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

CASE NO. 1D12-2726

Opinion filed April 24, 2013.

An appeal from the Circuit Court for Columbia County.
Maurice V. Giunta, Judge.

Nancy A. Daniels, Public Defender, and Danielle Jorden, Assistant Public Defender, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, and Angela R. Hensel, Assistant Attorney General, Tallahassee, for Appellee.

PER CURIAM

AFFIRMED.

LEWIS, and THOMAS, JJ., CONCUR. MAKAR, J., CONCURS WITH OPINION.

MAKAR, J., concurs with opinion.

Appellant was convicted of dealing in stolen property for the theft of an air conditioning unit and sentenced to eight years' imprisonment. On appeal, he asserts the prosecutor made several comments during closing arguments that constitute reversible fundamental error (no objection having been made). Among others, the comments included the prosecutor telling the jury that "the way I see it is this defendant is guilty as charged" and that the defense theory "does not make sense to me. It is not reasonable and I'm telling you it's not." The prosecutor also said "I'm a taxpayer in the [S]tate of Florida" and for that reason the prosecution "can't pick up everything under the sun and send it to the lab" for testing. Because no objection was made to the comments, the fundamental error standard applies. Under this standard I conclude that the comments, though improper, do not cumulatively require reversal. See Jones v. State, 571 So. 2d 1374, 1375(Fla. 1st DCA 1990) (holding that certain unobjected-to statements made by a prosecutor, although improper, did not constitute fundamental error).