

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D17-4593

DANIEL LAMAR WILLIAMS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Duval County.
Steven B. Whittington, Judge.

August 1, 2019

PER CURIAM.

AFFIRMED. *See Kline v. State*, 44 Fla. L. Weekly D1471a (Fla. 1st DCA June 7, 2019) (holding that where it is unclear whether the trial court used the correct standard to deny a motion for new trial, “the *potential* that the trial court erred does not reach the level of fundamental error”).

RAY, C.J., and ROWE, J., concur; OSTERHAUS, J., dissents with opinion.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

OSTERHAUS, J., dissenting.

I would reverse and remand for further consideration. *See Palmer v. State*, 196 So. 3d 1289 (Fla. 1st DCA 2016).

Andy Thomas, Public Defender, and Barbara J. Busharis, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Benjamin L. Hoffman, Assistant Attorney General, Tallahassee, for Appellee.