

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2006*

**TILBERT BAYNHAM,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D05-1566

[September 13, 2006]

WARNER, J.

Appealing from his conviction for carjacking and sentence of life imprisonment as a habitual violent felony offender, appellant, Tilbert Baynham, argues that the trial court: (1) erred in admitting a photograph of appellant in jail garb; (2) admitted a suggestive identification by the victim; and (3) sentenced him as a habitual violent felony offender in violation of *Apprendi v. New Jersey*, 530 U.S. 466 (2000). Each of these claims is meritless. As to the photograph, it was cropped so as to remove all indicia that Baynham was in jail garb. Therefore, there was no error. See *Anderson v. State*, 744 So. 2d 475 (Fla. 4th DCA 1999); *Fuster v. State*, 480 So. 2d 173 (Fla. 3d DCA 1985); *D'Anna v. State*, 453 So. 2d 151 (Fla. 1st DCA 1984). His claim that the identification was suggestive was already rejected by this court in the appeal of his first conviction. See *Baynham v. State*, 862 So. 2d 808, 810 (Fla. 4th DCA 2003). It is now the law of the case. See *Schultz v. Schickedanz*, 884 So. 2d 422, 424 (Fla. 4th DCA 2004). And, finally, we have previously rejected appellant's *Apprendi* claim. See *McBride v. State*, 884 So. 2d 476 (Fla. 4th DCA 2004).

*Affirmed.*

KLEIN and GROSS, JJ., CONCUR.

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Appeal from the Circuit Court for the Seventeenth Judicial Circuit,

Broward County; Ana I. Gardiner, Judge; L.T. Case No. 01-20814 CF10A.

Carey Haughwout, Public Defender, and Richard B. Greene, Assistant Public Defender, West Palm Beach, for appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Heidi L. Bettendorf, Assistant Attorney General, West Palm Beach, for appellee.

***Not final until disposition of timely filed motion for rehearing.***