

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

CHARLY COLES, JR.,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D05-200

[November 22, 2006]

MAY, J.

This case involves the third of three defendants charged with multiple crimes arising out of a home invasion robbery. This defendant raises many of the same issues raised by his co-defendants in their separate consolidated appeals and additionally raises issues specific to his case. This court resolved the common issues in *Garzon v. State*, 31 Fla. L. Weekly D2572 (Fla. 4th DCA Oct. 18, 2006). For the reasons expressed in *Garzon*, we reach the same result on the common issues. We find no merit in the additional issues raised in this appeal. We therefore affirm all convictions except for the defendant's conviction of armed kidnapping in Counts V and VI, which we reverse and remand for a new trial.

We also certify conflict with *Davis v. State*, 922 So. 2d 279 (Fla. 1st DCA 2006), and *Zeno v. State*, 910 So. 2d 394 (Fla. 2d DCA 2005).

Affirmed in Part and Reversed in Part and Remanded.

POLEN and KLEIN, JJ., concur.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Ana Gardiner, Judge; L.T. Case No. 03-15742CF10B.

Benedict P. Kuehne and Susan Dmitrovsky of Sale & Kuehne, P.A., Miami and Kendal Coffey of Coffey & Wright, LLP, Miami, for appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee, and David M. Schultz, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.