

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

DEBORAH CORNELIUS,)
)
Appellant,)
)
v.)
)
STATE OF FLORIDA,)
)
Appellee.)
_____)

Case No. 2D14-122

Opinion filed March 6, 2015.

Appeal from the Circuit Court for Pinellas
County; R. Timothy Peters, Judge.

J. Andrew Crawford of J. Andrew Crawford,
P.A., St. Petersburg, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Susan M. Shanahan and
Jason M. Miller, Assistant Attorneys
General, Tampa, for Appellee.

PER CURIAM.

Affirmed.

VILLANTI, C.J., and KELLY, J., Concur.
KHOUZAM, J., Concur specially.

KHOUZAM, Specially concurring.

The main argument raised in this appeal concerns unobjected-to comments by the prosecutor and unobjected-to testimony elicited by the prosecutor regarding Appellant's refusal to consent to a search of her home by law enforcement. The comments were repeated throughout the prosecutor's opening statement, testimony elicited in the State's case, and the rebuttal closing argument. Because the appellant has not established fundamental error, I concur in the decision to affirm. There is no question that the State's references to the appellant's exercise of her right to refuse to consent to a search of her residence is improper and should be avoided. However, based on the evidence presented in this case, it does not appear that it impaired the fairness of the proceedings below.