

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

JAMES A. WHITTEY,)	
)	
Appellant,)	
)	
v.)	Case No. 2D03-4762
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed December 3, 2004.

Appeal from the Circuit Court for Pinellas
County; Philip J. Federico, Judge.

James Marion Moorman, Public Defender,
and James T. Miller, Special Assistant
Public Defender, Bartow, for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and C. Suzanne Bechard,
Assistant Attorney General, Tampa, for
Appellee.

PER CURIAM.

Whitney's challenges to section 90.404(b)(2), Florida Statutes (2003), and
the jury instruction thereon were not preserved for appellate review and do not
demonstrate fundamental error. We affirm without comment Whitney's remaining issue.

Affirmed.

NORTHCUTT, KELLY, and WALLACE, JJ., Concur.