

Third District Court of Appeal

State of Florida

Opinion filed November 6, 2019.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-1053
Lower Tribunal No. 15-16346 A

Tryarn Woodard,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Jose L. Fernandez, Judge.

Carlos J. Martinez, Public Defender, and Robert Kalter, Assistant Public Defender, for appellant.

Ashley Moody, Attorney General, and Michael W. Mervine, Assistant Attorney General, for appellee.

Before **SALTER, LINDSEY**, and **HENDON, JJ.**

HENDON, J.

Tryarn Woodard (“defendant”) appeals his convictions and sentences for two

counts of armed robbery with a firearm and two counts of aggravated assault with a firearm. We affirm.

The defendant contends reversal is warranted based on several statements made by the prosecutor during the rebuttal closing argument. Based on our review of the statements, we conclude that they were not improper. See Conde v. State, 860 So. 2d 930, 950 n.12 (Fla. 2003) (“[T]he essential premise of the prosecutor’s argument, that the defense’s focus on certain issues was designed to lead the jury down the wrong road, was not improper.”); Rimmer v. State, 825 So. 2d 304, 324 n.16 (Fla. 2002) (“[W]e find no error with regard to several of the alleged comments. These include: (1) comments concerning defense counsel and his arguments during closing; (2) comments on the witnesses and evidence and the absence of reasonable doubt; and (3) the use of a baseball analogy by asking the jury to think of itself as baseball players and to keep their eyes on the ball (i.e., the facts and evidence in the case) and not be swayed by “sliders” or “outside fast balls.”).¹ Accordingly, we

¹ As we have concluded that the complained-of statements were not improper, we do not need to distinguish between the comments that were preserved for appellate review and those that were not. See Richemond v. State, 126 So. 3d 281, 284 (Fla. 3d DCA 2011) (“Statements made during closing argument are preserved for appeal by making a contemporaneous objection, which if sustained, must be followed by a request for a curative instruction or a motion for mistrial.”); Pedroza v. State, 773 So. 2d 639, 641 (Fla. 5th DCA 2000) (“If a party makes a contemporaneous objection to an improper comment which is sustained by the trial judge, the party must move for mistrial if he or she wishes to preserve the objection for appellate review.”).

affirm the defendant's convictions and sentences.

Affirmed.