

# Third District Court of Appeal

## State of Florida

Opinion filed January 23, 2019.  
Not final until disposition of timely filed motion for rehearing.

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No. 3D18-1327  
Lower Tribunal No. 99-26298

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**Ben E. Smith,**  
Appellant,

vs.

**The State of Florida,**  
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Mark Blumstein, Judge.

Ben E. Smith, in proper person.

Ashley Brooke Moody, Attorney General, and Richard L. Polin, Assistant Attorney General, for appellee.

Before LINDSEY and HENDON, JJ., and LUCK, Associate Judge.

PER CURIAM.

Affirmed. See Connolly v. State, 172 So. 3d 893, 904 (Fla. 3d DCA 2015) (en banc) (“Use or possession of a firearm, however, is not an essential element of second degree murder, but rather, it may serve to allow for a reclassification of the second degree murder from a first degree felony to a life felony or as an enhancement of the sentence imposed.” (footnote omitted)).