

Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed December 24, 2008.
Not final until disposition of timely filed motion for rehearing.

No. 3D07-2710
Lower Tribunal No. 06-32386

Alvin McPhearson,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Reemberto Diaz, Judge.

Bennett H. Brummer, Public Defender, and Robert Kalter, Assistant Public Defender, for appellant.

Bill McCollum, Attorney General, and Lunar Claire Alvey, Assistant Attorney General, for appellee.

Before WELLS, and SHEPHERD, JJ., and SCHWARTZ, Senior Judge.

WELLS, J.

Affirmed. See J.L.W. v. State, 814 So. 2d 1223, 1224 (Fla. 3d DCA 2002) (finding that charging the defendant with burglary of a structure, as opposed to burglary of a conveyance, was not reversible error because “[t]here was ‘not such variance [between the charge and the proof] here as could have misled respondent or subjected him to reprosecution,’” (quoting Dozier v. State, 662 So. 2d 382, 383 (Fla. 4th DCA 1995), reversed on other grounds, 675 So. 2d 110 (Fla. 1996))).