

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2001

JOSEPH GEIBEL,

**

Appellant,

**

CASE NO. 3D00-2041

**

vs.

**

THE STATE OF FLORIDA,

**

LOWER TRIBUNAL

Appellee.

**

CASE NO. 98-30165

Opinion filed October 3, 2001.

An appeal from the Circuit Court of Monroe County, Richard Payne, Judge.

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

Robert A. Butterworth, Attorney General, and Jill K. Traina, Assistant Attorney General, for appellee.

Before LEVY, GREEN, and FLETCHER, JJ.

FLETCHER, Judge.

Joseph Geibel appeals his convictions for first-degree felony murder and sexual battery. We affirm.

Geibel claims reversible error in certain trial court rulings during jury voir dire which he contends unduly restricted his inquiry. However, the transcript of the five-day selection process reveals that Geibel did not renew his objections prior to the swearing of the jury, thus his claims are not preserved for appellate review. See Stripling v. State, 664 So. 2d 2 (Fla. 3d DCA 1995) and cases cited therein. Specifically, after the selection of the twelve jurors (and one alternate), the trial judge directed the selected jurors to be seated in the jury box, calling the name and juror number of each. [T.1277] The trial judge then excused the venire members who were not selected. A sidebar discussion of trial scheduling took place, after which the trial judge stated that he was "going to swear them now." He directed the clerk to swear the jury, which the clerk did. [T.1280] The trial judge then directed the jurors as to their various responsibilities, advised them of the parking problems they could expect to encounter, and discussed the potential length of the trial. [T.1280-87] The trial judge then excused the jury from the courtroom and announced: "We'll be adjourned in this case until - -," at which time one of Geibel's attorneys interrupted, stating, "I just have one thing to say. I don't think we were ever specifically asked, but we don't accept this jury due to our previously raised objections." [T.1288]

Geibel's attorneys' attempt to renew their objections was too little, too late. Indeed, the apparent protestation that they were not asked if they accepted the jury has no effect on preservation.

In order for the jury selection objections to be preserved, they must be renewed before the jury is sworn even if the trial judge did not ask if counsel approved the jury. Milstein v. Mutual Security Life Ins. Co., 705 So. 2d 639 (Fla. 3d DCA 1998).

We conclude that the remaining issue raised by Geibel reflects no error on the part of the trial judge. Accordingly Geibel's convictions are affirmed.