

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. 2003

|                       |    |                                |
|-----------------------|----|--------------------------------|
| SHELDON A. CLARK,     | ** |                                |
| Appellant,            | ** |                                |
| vs.                   | ** | CASE NO. 3D01-3513             |
| THE STATE OF FLORIDA, | ** |                                |
| Appellee.             | ** | LOWER<br>TRIBUNAL NO. 00-9533B |

Opinion filed December 24, 2003.

An appeal from the Circuit Court for Miami-Dade County, Kevin M. Emas, Judge.

Bennett H. Brummer, Public Defender, and Bruce A. Rosenthal, Assistant Public Defender, for appellant.

Charles J. Crist, Jr., Attorney General, and Barbara Zappi and Andrea D. England, Assistant Attorneys General, for appellee.

Before SCHWARTZ, C.J., and COPE and SHEPHERD, JJ.

PER CURIAM.

Sheldon Clark appeals his convictions for first degree murder and burglary of a dwelling.\*

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\* He does not challenge his conviction on possession of a firearm by a convicted felon.

First, assuming without deciding that duress can be a defense to a felony murder charge, see Wright v. State, 402 So. 2d 493, 498 n. 8 (Fla. 3d DCA 1981), we conclude that the defense request for a jury instruction on duress was properly denied, because there was no competent evidence of duress. Second, the motion for judgment of acquittal on the burglary count was correctly denied. See Nicarry v. State, 795 So. 2d 1114, 1116 (Fla. 5<sup>th</sup> DCA 2001), review denied, 819 So. 2d 138 (Fla. 2002); Britton v. State, 604 So. 2d 1288, 1290 (Fla. 2d DCA 1992).

Affirmed.