

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

STEVEN ALLEN MATTISON,
Appellant,

v.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 1D11-1950

STATE OF FLORIDA,
Appellee.

/

Opinion filed June 1, 2012.

An appeal from the Circuit Court for Bay County.
Brantley S. Clark, Jr., Judge.

Katharine B. Heyward, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, and Giselle D. Lylen, Assistant Attorney General, Tallahassee, for Appellee.

PER CURIAM.

AFFIRMED.

WOLF and RAY, JJ., CONCUR. MAKAR, J., CONCURS WITH OPINION.

MAKAR, J., concurring.

While I concur in affirmance, I note that the prosecutor's arguments to the jury raise a number of significant concerns that might otherwise result in reversal but for the lack of full and timely objections. The totality of these arguments, which push fundamental error analysis to the brink, unnecessarily injected potential legal error in this case for no valid purpose. Affirmance in this case does not condone the arguments at issue; it is required only because the fundamental error threshold was ascended but not reached.