

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JANUARY TERM 2009

DAMION LATROY DAVIS,

Appellant,

v.

CASE NO. 5D08-4427

STATE OF FLORIDA,

Appellee.

/

Opinion filed July 10, 2009

3.850 Appeal from the Circuit Court
for Brevard County,
Charles M. Holcomb, Judge.

Damion Davis, Graceville, pro se.

Bill McCollum, Attorney General,
Tallahassee, and Douglas T. Squire,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

AFFIRMED. *Cf. Lowe v. State*, 2 So. 3d 21, 38 (Fla. 2008) ("Because the Court found no fundamental error [on direct appeal], Lowe fails to demonstrate that counsel's failure to object to the comments resulted in prejudice sufficient to undermine the outcome of the trial under *Strickland*[¹]."); *Chandler v. State*, 848 So. 2d 1031, 1046 (Fla. 2003) ("Because Chandler could not show the comments were fundamental error

¹ *Strickland v. Washington*, 466 U.S. 668, 694, 104 S.Ct. 2052, 80 L.Ed.2d 674 (1984).

on direct appeal, he likewise cannot show that trial counsel's failure to object to the comments resulted in prejudice sufficient to undermine the outcome of the case under the prejudice prong of the *Strickland* test.").

SAWAYA, ORFINGER and LAWSON, JJ., concur.