

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

JANUARY TERM 2010

JOE SMITHWICK, IV,

Appellant,

v.

Case No. 5D09-1975

STATE OF FLORIDA,

Appellee.

/

Opinion filed February 9, 2010

Appeal from the Circuit Court
for Brevard County,
James H. Earp, Judge.

James S. Purdy, Public Defender, and
Susan A. Fagan, Assistant Public
Defender, Daytona Beach, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Pamela J. Koller,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

AFFIRMED. See *Lynch v. State*, 293 So. 2d 44, 45 (Fla. 1974).

MONACO, C.J., PALMER and COHEN, JJ., concur.