

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

JULY TERM 2009

MICHAEL BERNARD HORN,

Appellant,

v.

Case No. 5D09-329

STATE OF FLORIDA,

Appellee.

/

Opinion filed September 11, 2009

Appeal from the Circuit Court
for Seminole County,
Donna L. McIntosh, Judge.

James S. Purdy, Public Defender, and
Robert E. Wildridge, Assistant Public
Defender, Daytona Beach, for Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Kellie A. Nielan,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Michael Horn appeals his conviction for animal cruelty.¹ He correctly contends that it was error for the trial court to instruct the jury on the definition of "cruelty, torture, or torment." The definition of these terms was unnecessary for a determination of Horn's animal cruelty charge. However, no objection was made to these instructions at

¹ § 828.12(2), Fla. Stat. (2007).

trial. Jury instructions are subject to the contemporaneous objection rule, and, absent an objection at trial, can be raised on appeal only if fundamental error occurred. *State v. Weaver*, 957 So. 2d 586, 588 (Fla. 2007). We conclude that no fundamental error occurred in this case, particularly given that the jury was properly instructed on the elements of the charged offense.

AFFIRMED.

LAWSON, EVANDER and COHEN, JJ., concur.