

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

JANUARY TERM 2012

OMAR LONG,

Appellant,

v.

Case No. 5D10-810
5D10-811

STATE OF FLORIDA,

Appellee.

_____ /

Opinion filed March 23, 2012

Appeal from the Circuit Court
for St. Johns County,
Wendy Berger, Judge.

William Mallory Kent, of Law Office of
William Mallory Kent, Jacksonville, for
Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Ann M. Phillips,
Assistant Attorney General, Daytona
Beach, for Appellee.

PER CURIAM.

Omar Long (Defendant) appeals the judgment finding him guilty of manslaughter by culpable negligence and the order revoking his probation on a previous charge.¹ Defendant argues that: 1) the evidence presented by the State was legally insufficient to convict him of manslaughter; and 2) the trial court erred in not instructing the jury on the

¹ Long filed separate appeals regarding his manslaughter conviction, case number 5D10-811, and violation of probation, case number 5D10-810. Those appeals were consolidated by this court.

lesser included offense of leaving a child unattended in a motor vehicle pursuant to section 316.6135, Florida Statutes (2009). In addition, Defendant requests that the order revoking probation be reversed in the event his manslaughter conviction is reversed.

We find that there was sufficient evidence to submit the manslaughter charge to the jury and affirm on that ground without further discussion. With respect to Defendant's claim that the trial court erred in failing to instruct the jury on a lesser included offense, we affirm without prejudice to Defendant to file an appropriate motion for postconviction relief. We also affirm the order revoking Defendant's probation.

AFFIRMED.

SAWAYA, PALMER and JACOBUS, JJ., concur.