

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

JANUARY TERM 2012

FRANCISCO VEGA,

Appellant,

v.

CASE NO. 5D11-2316

STATE OF FLORIDA,

Appellee.

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Opinion filed April 20, 2012

Appeal from the Circuit Court  
for Orange County,  
Bob Leblanc, Judge.

James S. Purdy, Public Defender, and  
Edward J. Weiss, Assistant Public  
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Rebecca Roark Wall,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

PER CURIAM.

Francisco Vega appeals from his conviction on a single charge of delivery of cocaine, challenging the trial court's decision not to instruct the jury on the defense of entrapment and also challenging his conviction based upon the constitutional analysis in *Shelton v. Secretary, Department of Corrections*, 802 F. Supp. 2d 1289 (M.D. Fla. 2011).

We affirm as to the entrapment issue without elaboration. See *Davis v. State*, 937 So. 2d 300, 303 (Fla. 4th DCA 2006) ("[W]hen the evidence is not conflicting and the factual circumstances not in dispute, the determination of whether an accused has been entrapped is an issue that is determined as a matter of law by the trial judge."). We reject Appellant's constitutional argument for the reasons explained in *Flagg v. State*, 74 So. 3d 138 (Fla. 1st DCA 2011). We recognize that this latter issue is currently pending before the Florida Supreme Court in *State v. Adkins*, 71 So. 3d 117 (Fla. 2011). Accordingly, we will withhold our mandate pending a final disposition of *Adkins*.

AFFIRMED.

SAWAYA, LAWSON and EVANDER, JJ., concur.