

Third District Court of Appeal

State of Florida, July Term, A.D. 2009

Opinion filed September 23, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D07-2476
Lower Tribunal No. 04-31906

Rodrigo Bonilla,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Julio E. Jimenez, Judge.

Carlos J. Martinez, Public Defender, and Gwendolyn Powell Braswell, Assistant Public Defender, for appellant.

Bill McCollum, Attorney General, and Natalia Costea, Assistant Attorney General, for appellee.

Before GERSTEN and CORTIÑAS, and SCHWARTZ, Senior Judge.

SCHWARTZ, Senior Judge.

Rejecting the appellant's primary position on appeal, we conclude – notwithstanding the very sketchy nature of the record as to the surrounding

circumstances – that the singular fact that the defendant drove a butcher knife five and three-quarter inches into the victim’s chest, reaching his heart and causing his death, was itself sufficient to establish the “depraved mind” element of second degree murder, of which Bonilla was convicted after a jury trial. See *State v. Bryan*, 287 So. 2d 73 (Fla. 1973), cert. denied, 417 U.S. 912 (1974); *Todd v. State*, 756 So. 2d 145 (Fla. 5th DCA 2000); *Hines v. State*, 227 So. 2d 334 (Fla. 1st DCA 1969); *Davis v. State*, 879 S.W.2d 439 (Ark. 1994); see also *State v. Davidson*, No. C.C.A. No. 88-231-III, 1989 WL 76326 (Tenn. Crim. App. Oct. 2, 1989).

We find no merit in the appellant’s contention that self-defense was established as a matter of law.

Affirmed.