

Third District Court of Appeal

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

Opinion filed September 16, 2009.
Not final until disposition of timely filed motion for rehearing.

No. 3D09-1442
Lower Tribunal No. 02-35178

Angel Jomolla,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal under Florida Rule of Appellate Procedure 9.141(b)(2) from the Circuit Court for Miami-Dade County, Daryl Trawick, Judge.

Angel Jomolla, in proper person.

Bill McCollum, Attorney General, for appellee.

Before GERSTEN and CORTIÑAS, JJ., and SCHWARTZ, Senior Judge.

PER CURIAM.

Affirmed. See Reyes v. State, 920 So. 2d 1171 (Fla. 3d DCA 2006) (holding that where results would not have been different but for counsel's error, the defendant has not proven prejudice as required under Strickland v.

Washington, 466 U.S. 668 (1984)); see also Jomolla v. State, 990 So. 2d 1234, 1238 (Fla. 3d DCA 2008) (finding that the State did not argue the erroneous theory or rely upon it in the prosecution's case).