

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

JULY TERM 2011

JAMES BROWN,

Appellant,

v.

Case No. 5D10-2839

STATE OF FLORIDA,

Appellee.

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Opinion filed December 23, 2011

Appeal from the Circuit Court  
for Lake County,  
Mark A. Nacke, Judge.

James S. Purdy, Public Defender, and  
David S. Morgan, Assistant Public  
Defender, Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Lori N. Hagan, Assistant  
Attorney General, Daytona Beach, for  
Appellee.

PER CURIAM.

AFFIRMED. *See Escobedo v. State*, 561 So. 2d 429, 430 (Fla. 3d DCA 1990)  
("Whatever the merits of the claim, it cannot now be considered because, when the trial  
judge explicitly offered the defendant a mistrial on this ground below, defense counsel  
just as specifically withdrew the motion. It is therefore plain that the identical contention

may not now be resurrected as a basis for reversal only after the jury has returned an unwelcome verdict.").

ORFINGER, C.J., MONACO and EVANDER, JJ., concur.