

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

JULY TERM 2010

AAA TITLE AGENCY, INC., F/K/A AAA,
ETC., ET AL.,

Appellants,

v.

Case No. 5D10-563

CECILIA C. FULLER,

Appellee.

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Decision filed October 29, 2010

Non-Final Appeal from the
Circuit Court for Volusia County,
Richard S. Graham, Judge.

J. Steven Garthe and Carly R. Fishpaugh,
of Heebner, Baggett, Upchurch & Garthe,
P.L., Daytona Beach, for Appellant.

Barry E. Hughes, South Daytona, for
Appellee.

PER CURIAM.

AFFIRMED.

LAWSON and EVANDER, JJ., concur.
ORFINGER, J., concurs and concurs specially, with opinion.

ORFINGER, J., concurs specially.

Affirmance is appropriate here because if, as Appellants' claim, error exists, it was invited error. To the extent that 50 State Security Service, Inc. v. Murray, 973 So. 2d 533, 535 n.3 (Fla. 3d DCA 2007), suggests a contrary result, that footnoted comment constitutes dicta and was not an essential holding of the case. Only language that is "clearly critical to the outcome" of the case may be considered a holding of the case. See BellSouth Telecomm., Inc. v. Church & Tower of Fla., Inc., 930 So. 2d 668, 673 (Fla. 3d DCA 2006). When a statement does not directly control the outcome, it is dicta and without the force of precedent. State ex rel. Biscayne Kennel Club v. Bd. of Bus. Regulation of Dept of Bus. Regulation, 276 So. 2d 823, 826 (Fla. 1973). As a consequence, I see no conflict with Murray.