

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Joseph Michael Howard v. The State of Florida

No. 3D23-1737 · No. 3D23-1737 · Decided April 2, 2025

SUMMARY

The Third District Court of Appeal of Florida affirmed a County Court judgment involving driving while a license or driving privilege was canceled, suspended, revoked, or under equivalent status. The court cited section 322.34, Florida Statutes (2022), and held that an unpreserved insufficiency-of-the-evidence claim is generally not reviewable unless the evidence was insufficient to show that any crime had been committed.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	EMAS, J.; LINDSEY, J.; LOBREE, J.
JURISDICTION	Florida Third District Court of Appeal
DECIDED	April 2, 2025
DOCKET	3D23-1737
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a judgment of the County Court for Miami-Dade County.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Joseph Michael Howard v. The State of Florida

TOPICS

- preservation of error
- appellate procedure
- criminal procedure
- statutory interpretation

PRACTICE AREAS

- criminal law
- criminal appellate practice
- driver's license offenses

QUESTIONS PRESENTED

- Whether Howard's challenge to the sufficiency of the evidence was properly preserved for appellate review.
- Whether the evidence was legally sufficient under section 322.34, Florida Statutes (2022), to support the conviction.

HOLDINGS

1. A claim that the evidence was insufficient must be properly preserved unless the evidence was insufficient to show that any crime had been committed.
2. The judgment was affirmed under the statutory provisions governing driving while a license or driving privilege is canceled, suspended, revoked, or under equivalent suspension or revocation status, including the provision permitting consideration of other evidence of a knowing violation.

KEY QUOTATIONS

“In any proceeding for a violation of this section, a court may consider evidence, other than that specified in subsection (2), that the person knowingly violated this section.”

“unless the evidence was insufficient to show that any crime had been committed, claims of insufficient evidence must be properly preserved.”

FACTUAL BACKGROUND

The opinion concerns a prosecution under section 322.34, Florida Statutes (2022), involving driving while a driver's license or driving privilege was canceled, suspended, revoked, or subject to equivalent status. The appellate court cited statutory provisions concerning the required knowledge and the evidence that may be considered to establish a knowing violation. The opinion does not provide additional factual detail.

PROCEDURAL HISTORY

Howard appealed from the County Court for Miami-Dade County. The Third District Court of Appeal affirmed without an extended discussion, citing the applicable driver's-license statute and Florida precedent concerning preservation of insufficient-evidence claims.

DISPOSITION

affirmed

CASES CITED

- Turner v. State, 50 Fla. L. Weekly D385, D387 (Fla. 3d DCA Feb. 12, 2025)
- Monroe v. State, 191 So. 3d 395, 400 (Fla. 2016)
- Ramirez v. State, 388 So. 3d 1075, 1075–1076 (Fla. 3d DCA 2024)

OPINION

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed April 2, 2025. Not final until disposition of timely filed motion for rehearing. _____ No. 3D23-1737 Lower Tribunal No. AGLZEUE _____ Joseph Michael Howard, Appellant, vs. The State of

Florida, Appellee. An Appeal from the County Court for Miami-Dade County, Cristina Rivera Correa, Judge.

Carlos J. Martinez, Public Defender, and Jennifer Thornton, Assistant Public Defender, for appellant. James Uthmeier, Attorney General and Linda Katz, Assistant Attorney General, for appellee. Before EMAS, LINDSEY and LOBREE, JJ. PER CURIAM. Affirmed. See § 322.34(2) (a)–(c), Fla. Stat. (2022) (providing that “[a]ny person... who does not have a driver license or driving privilege but is under suspension or revocation equivalent status as defined in s. 322.01(42)... who, knowing of such... revocation equivalent status, drives any motor vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked, or while under suspension or revocation equivalent status, commits” either a misdemeanor or felony); § 322.34(3), Fla. Stat. (2022) (“In any proceeding for a violation of this section, a court may consider evidence, other than that specified in subsection (2), that the person knowingly violated this section.”); *Turner v. State*, 50 Fla. L. Weekly D385, D387 (Fla.

3d DCA Feb. 12, 2025) (“[U]nless the evidence was insufficient to show that any crime had been committed, claims of insufficient evidence must be properly preserved.” (quoting *Monroe v. State*, 191 So. 3d 395, 400 (Fla. 2016))); see also *Ramirez v. State*, 388 So. 3d 1075, 1075–1076 (Fla. 3d DCA 2024). 2