

DISTRICT COURT OF APPEAL OF FLORIDA, THIRD DISTRICT

Jonathan E. Rivera-Enriquez v. State of Florida

No. 3D24-2154 (Fla. 3d DCA May 6, 2026) · No. No. 3D24-2154 · Decided May 6, 2026

SUMMARY

The Florida Third District Court of Appeal affirmed the judgment in Jonathan E. Rivera-Enriquez’s criminal appeal. The court addressed permissive lesser-included-offense instructions, amendment of a charging information, reliability of out-of-court statements, and abuse-of-discretion review.

CASE DETAILS

COURT	District Court of Appeal of Florida, Third District
WRITING FOR THE COURT	Fernandez; Logue; Bokor
JURISDICTION	Florida Third District Court of Appeal
DECIDED	May 6, 2026
DOCKET	No. 3D24-2154
DISPOSITION	affirmed
PROCEDURAL POSTURE	Criminal appeal from the Circuit Court for Monroe County.
STANDARD OF REVIEW	Abuse of discretion, including whether the trial court acted arbitrarily, fancifully, or unreasonably.
PRECEDENTIAL VALUE	Published opinion
PARTIES	Jonathan E. Rivera-Enriquez v. State of Florida

TOPICS

- criminal procedure
- appellate procedure
- standard of review
- evidence
- hearsay

PRACTICE AREAS

- criminal procedure
- appellate procedure
- evidence

QUESTIONS PRESENTED

1. Whether the trial court abused its discretion in rulings concerning a permissive lesser-included-offense instruction.

2. Whether any midtrial substantive amendment of the information prejudiced the defendant's substantial rights.
3. Whether the trial court abused its discretion in determining that out-of-court statements bore sufficient indicia of reliability.

HOLDINGS

1. The Third District affirmed the judgment because the record did not establish reversible error or an abuse of discretion in the challenged trial-court rulings.

KEY QUOTATIONS

“Under Florida Rule of Criminal Procedure 3.510(b) the giving of an instruction on a lesser offense is a matter of discretion for the trial judge, who must determine whether the charging document and evidence at trial support the giving of the instruction on the lesser offense as a permissive lesser- included offense.” (at 2)

“The state may substantively amend an information midtrial unless it prejudices the defendant’s substantial rights.” (at 2)

“Discretion . . . is abused when the judicial action is arbitrary, fanciful, or unreasonable, which is another way of saying that discretion is abused only where no reasonable man would take the view adopted by the trial court.” (at 2)

FACTUAL BACKGROUND

The opinion provides no substantive factual narrative. The cited authorities indicate that the appeal involved issues concerning a permissive lesser-included-offense instruction, a possible midtrial amendment of the charging information, and the reliability of out-of-court statements.

PROCEDURAL HISTORY

Jonathan E. Rivera-Enriquez appealed from proceedings in the Circuit Court for Monroe County. The Third District Court of Appeal affirmed in a per curiam opinion, citing Florida decisions addressing lesser-included-offense instructions, amendment of an information, reliability of out-of-court statements, and abuse of discretion.

DISPOSITION

affirmed

CASES CITED

- State v. Espinosa, 686 So. 2d 1345, 1347 (Fla. 1996)
- Thach v. State, 342 So. 3d 620, 623–24 (Fla. 2022)
- Perez v. State, 536 So. 2d 206, 210 (Fla. 1988)
- Canakaris v. Canakaris, 382 So. 2d 1197, 1203 (Fla. 1980)

OPINION

Jonathan E. Rivera-Enriquez v. State of Florida

PER CURIAM.

Third District Court of Appeal State of Florida Opinion filed May 6, 2026. Not final until disposition of timely filed motion for rehearing. _____ No. 3D24-2154 Lower Tribunal No. 23-CF-135-A-P _____ Jonathan E. Rivera-Enriquez, Appellant, vs. State of Florida, Appellee. An Appeal from the Circuit Court for Monroe County, James W. Morgan, III, and Luis Garcia, Judges. The Law Office of Robert David Malove, P.A., and Hani Demetrious (Fort Lauderdale), for appellant. James Uthmeier, Attorney General, and Kayla Heather McNab, Assistant Attorney General, for appellee. Before FERNANDEZ, LOGUE and BOKOR, JJ. PER CURIAM. Affirmed. See *State v. Espinosa*, 686 So. 2d 1345, 1347 (Fla. 1996) (“Under Florida Rule of Criminal Procedure 3.510(b) the giving of an instruction on a lesser offense is a matter of discretion for the trial judge, who must determine whether the charging document and evidence at trial support the giving of the instruction on the lesser offense as a permissive lesser- included offense. . . . An instruction on a permissive lesser included offense should be precluded only where there is a total lack of evidence of the lesser offense.” (quotations omitted)); *Thach v. State*, 342 So. 3d 620, 623–24 (Fla. 2022) (“The state may substantively amend an information midtrial unless it prejudices the defendant’s substantial rights. . . . Prejudice, in this context, depends not on any one factor, but on the totality of the circumstances at the time of the amendment.” (citation modified)); *Perez v. State*, 536 So. 2d 206, 210 (Fla. 1988) (“Absent a showing of an abuse of discretion . . . the trial judge’s determination that the out-of-court statements bear sufficient indicia of reliability will be upheld.”); *Canakaris v. Canakaris*, 382 So. 2d 1197, 1203 (Fla. 1980) (“Discretion . . . is abused when the judicial action is arbitrary, fanciful, or unreasonable, which is another way of saying that discretion is abused only where no reasonable man would take the view adopted by the trial court.” (quotation omitted)). 2