

**SIXTH DISTRICT COURT OF APPEAL
STATE OF FLORIDA**

Case No. 6D2024-0519
Lower Tribunal No. 23-CF-014868

KEITH MICHAEL ALAPE,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

Appeal from the Circuit Court for Lee County.
Christine H. Greider, Judge.

December 12, 2025

PER CURIAM.

AFFIRMED. *See Steiger v. State*, 328 So. 3d 926, 932 (Fla. 2021) (“Based on the plain text of section 924.051(3), [Florida Statutes,] an unpreserved error may only be raised and result in reversal on direct appeal where the error is fundamental.”); *Knight v. State*, 286 So. 3d 147, 151 (Fla. 2019) (“Jury instruction errors are subject to the contemporaneous objection rule. In the absence of a contemporaneous objection at trial, a jury instruction error is only subject to relief in the event of fundamental error.” (citations omitted)); *Sochor v. State*, 619 So. 2d 285, 290 (Fla. 1993) (“Fundamental error is error which goes to the foundation of

the case. Failure to give an instruction unnecessary to prove an essential element of the crime charged is not fundamental error.” (citation omitted)); *Mohammed v. State*, 309 So. 3d 269, 274 (Fla. 5th DCA 2020) (“*Sochor* controls this case, and the trial court could not fundamentally err by failing to instruct the jury on an unrequested defense instruction.”); *see generally State v. Adkins*, 96 So. 3d 412, 416 (Fla. 2012) (explaining that section 893.101, Florida Statutes, “expressly eliminates knowledge of the illicit nature of the controlled substance as an element of controlled substance offenses and expressly creates an affirmative defense of lack of knowledge of the illicit nature of the substance” but “does not eliminate the element of knowledge of the presence of the substance”).

STARGEL, WOZNIAK and PRATT, JJ., concur.

Blair Allen, Public Defender, and Diana L. Johnson, Assistant Public Defender, Bartow, for Appellant.

James Uthmeier, Attorney General, Tallahassee, and Katherine Coombs Cline, Senior Assistant Attorney General, Tampa, for Appellee.

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING
AND DISPOSITION THEREOF IF TIMELY FILED