

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

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Case No. 6D2024-0735  
Lower Tribunal No. 11-CF-15936

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YOUSEL L. RIVERA,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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Appeal from the Circuit Court for Lee County.  
Nicholas Thompson, Judge.

July 11, 2025

PER CURIAM.

Yousel L. Rivera appeals his conviction and sentence for attempted first-degree premeditated murder of a law enforcement officer with a firearm.<sup>1</sup> He raises numerous issues on appeal, all of which we find unavailing. Specifically, we find: 1) evidence of his possession of marijuana during the shooting was admissible because it was inextricably intertwined with the charged offense; 2) evidence of his “abnormal brain pathology” and prior head injuries was inadmissible to show he did not act with the requisite intent, *see, e.g., Evans v. State*, 946 So. 2d 1, 10–11 (Fla. 2006), *Reaves v. State*, 639 So. 2d 1, 4 (Fla. 1994), and *Bunney v. State*, 603 So. 2d

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<sup>1</sup> This is Mr. Rivera’s second appeal. *Rivera v. State*, 235 So. 3d 983 (Fla. 2d DCA 2017).

1270, 1272–73 (Fla. 1992); 3) the bullet fragment and test-fired casings were properly admitted because there was no evidence of tampering and, even if that were not the case, the admission of such evidence was harmless beyond a reasonable doubt; 4) no *Brady*<sup>2</sup> violation occurred because the parties had equal access to the information in question and there was no evidence the State willfully or inadvertently suppressed the evidence, *see, e.g., Pagan v. State*, 29 So. 3d 938, 946 (Fla. 2009) and *Provenzano v. State*, 616 So. 2d 428, 430 (Fla. 1993); 5) there was sufficient evidence to prove beyond a reasonable doubt that the shooting was premeditated; 6) the record supported the inclusion of a voluntary intoxication instruction, *see Patrick v. State*, 104 So. 3d 1046, 1058 (Fla. 2012) and *Gibbs v. State*, 904 So. 2d 432, 437 (Fla. 4th DCA 2005); 7) the State’s actions during closing arguments were not improper; and 8) the imposition of a life sentence was not unconstitutional, *see, e.g., Barwick v. State*, 361 So. 3d 785, 794 (Fla. 2023) and *Boesch v. State*, 368 So. 3d 454, 455–56 (Fla. 4th DCA 2023).

AFFIRMED.

STARGEL, NARDELLA and SMITH, JJ., concur.

Ana M. Davide, of Ana M. Davide, P.A., Coral Gables, for Appellant.

James Uthmeier, Attorney General, Tallahassee, and Johnathan P. Hurley, Senior Assistant Attorney General, and David Campbell, Assistant Attorney General, Tampa, for Appellee.

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

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<sup>2</sup> *Brady v. Maryland*, 373 U.S. 83 (1963).