

IN THE CIRCUIT COURT OF THE
NINTH JUDICIAL CIRCUIT, IN AND
FOR ORANGE COUNTY, FLORIDA

CASE NO: 2010-AP-37
Lower Court Case No: 2009-MM-13685

VERONICA J. BROWN,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

_____ /

Appeal from the County Court,
for Orange County, Florida,
Leon B. Cheek, III, County Court Judge

Robert Wesley, Public Defender and
Belinda Teresa Rivera, Assistant Public Defender,
for Appellant

Lawson Lamar, State Attorney and
David Margolis, Assistant State Attorney,
for Appellee

Before POWELL, EVANS, and HIGBEE, J.J.

PER CURIAM.

FINAL ORDER AFFIRMING TRIAL COURT

Veronica Brown, (“Appellant”) appeals her conviction for Criminal Mischief Greater Than \$200. Oral argument is dispensed with pursuant to Florida Rule of Appellate Procedure 9.320. We affirm.

Appellant contends that the trial court erred in admitting into evidence over her objection at trial a State exhibit consisting of a written insurance repair estimate of the damage to the victim’s automobile. The estimate which contained a declaration of the custodian was admitted

as a business record pursuant to section 90.803(6)(b), Florida Statutes. Her sole argument here as it was during trial is that the State was required to produce a qualified witness who is subject to cross-examination as to the record. However, Appellant has failed to preserve this point for appeal because she did not make a pre-trial motion objecting to the exhibit, thus waiving the point. See section 90.803(6)(c), Florida Statutes which provides, in pertinent part, that:

...A motion opposing the admissibility of such evidence *must* be made by the opposing party and be determined by the court *before trial*. A party's failure to file such a motion before trial constitutes a waiver of objection to the evidence, but the court for good cause may grant relief from the waiver. (Emphasis added).

Appellant did not request and the trial court did not grant a waiver. Consequently, Appellant's conviction is **AFFIRMED**.

DONE AND ORDERED at Orlando, Florida this 18th day of January, 2013.

/S/
ROM W. POWELL
Senior Judge

/S/
ROBERT M. EVANS
Circuit Judge

/S/
HEATHER L. HIGBEE
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing order was furnished to **Belinda Teresa Rivera, Assistant Public Defender**, 435 N. Orange Avenue, Ste. 400, Orlando, Florida 32801; **Dugald McMillan, Assistant State Attorney**, 415 N. Orange Avenue, Ste. 200, Orlando, Florida 32802-1673; and **Honorable Leon B. Cheek, III**, 425 N. Orange Avenue, Orlando, Florida 32801, this 23rd day of January, 2012.

/S/
Judicial Assistant