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

CASE NO: 2012-AP-02-A-O
Lower Court Case No: 2011-CT-9692-A-O

EDGARDO LOPEZ,

       Appellant,

v.

STATE OF FLORIDA,

       Appellee.

_____/

DATE: October 23, 2013

Appeal from the County Court,
for Orange County, Florida,
Martha C. Adams, County Court Judge

Robert Wesley, Public Defender and
Jessica Saltz, Assistant Public Defender,
for Appellant

Lawson Lamar, State Attorney and
Dugald McMillan, Assistant State Attorney,
for Appellee

Before POWELL, EVANS, and SHEA, J.J.

PER CURIAM.

FINAL ORDER AFFIRMING TRIAL COURT

Appellant Lopez appeals his conviction for Driving While Under The Influence. Finding

no error, we affirm.

The prosecutor's comments in closing argument did not improperly bolster the credibility

of the officer's testimony, but were directed at having the jury evaluate what motive the officer

would have to deceive them. The prosecutor did not state his personal belief or suggest the testimony was more believable simply because the witness was a police officer. *See Smith v. State,* 818 So. 2d 707 (Fla. 5th DCA 2002) and cases cited therein.

When considered in context, the prosecutor's statement in closing was proper rebuttal to defense counsel's implication during her cross-examination of an officer that Appellant had consumed only one beer and not a six pack. It was not a comment on his right to remain silent at arrest or his failure to testify. *See State v. Jones,* 867 So. 2d 398 (Fla. 2004) and cases cited therein.

AFFIRMED.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing order was furnished to **Jessica Saltz, 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 Martha C. Adams**, 425 N. Orange Avenue, Orlando, Florida 32801, this 25th day of October, 2013.

/S/_____
Judicial Assistant