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

CASE NO: 2009-AP-43
Lower Court Case No: 2009-MM-3457

DELANO H. BROWN,

Appellant,

vs.

STATE OF FLORIDA,

Appellee.
_____/

Appeal from the County Court,
for Orange County, Florida,
Clayton Simmons, Chief Judge of
18th Judicial Circuit Court

Robert Wesley, Public Defender and
Anton M. Robinson, Assistant Public Defender,
for Appellant

No Appearance for Appellee

Before POWELL, LAUTEN, and SHEA, J.J.

PER CURIAM.

FINAL ORDER AFFIRMING TRIAL COURT

Appellant Delano Brown appeals his conviction for Harassing Telephone Calls in violation of section 365.16 of the Florida Statutes. We have carefully reviewed the record on appeal, his brief, the applicable legal authorities, and have read the entire jury trial transcript. We affirm.

Appellant raises three arguments. We conclude that the trial judge was correct in denying his motions for judgment of acquittal, and that the trial judge did not improperly limit the scope of his cross-examination of the witness Ninth Judicial Circuit Court Judge Alice Blackwell. Only his third argument – that after granting a motion in limine, the trial court failed to exclude other similar crime evidence of telephone calls to other judges – merits brief discussion.

Appellant's sole defense was that the telephone calls he made to Judge Blackwell's courthouse public telephone number were not made to harass but to obtain hearing time for several motions he had filed in his case which was assigned to Judge Blackwell. We find that the evidence sought to be excluded was relevant and admissible on the issue of intent. *See Williams v. State*, 110 So. 2d 654 (Fla. 1959); *Miller v. State*, 667 So. 2d 325,328 (Fla. 1st DCA 1995) ("Evidence may be admissible [under section 90.404(2)] to disprove a defendant's theory of defense or to disprove the defendant's attempt to explain the intent of defendant."). It was not offered to show propensity. The prosecutor did not bring it up again, and did not mention it in his opening statement or closing argument. It did not become a "feature of the case". The state had a strong case based on the testimony of three witnesses and the playing of a number of the recorded calls. Appellant admitted placing "probably about 60" calls to Judge Blackwell's number, and in one call alluded to other judges, saying: "– – – you, Judge Bronson, you guys need to be stripped of your judicial powers." Appellant did not argue in his brief the previously asserted grounds of his limine motion and trial objections of hearsay, more prejudicial than probative, and lack of statutory notice, thus abandoning those arguments on appeal. *See City of Miami v. Steckloff,* 111 So. 2d 446,447 (Fla. 1959) (point raised before the trial court will not be considered by an appellate court unless properly raised and discussed in the briefs).

Based upon the foregoing reasons, Appellant's conviction is **AFFIRMED.**

DONE AND ORDERED at Orlando, Florida this __29th___ day of _March_____, 2012.

__/S/_____
ROM W. POWELL
Senior Judge

_/S/_____
FREDERICK J. LAUTEN
Circuit Judge

__/S/_____
TIM SHEA
Circuit Judge

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing order was furnished to **Anton M. Robinson, Assistant Public Defender**, 435 N. Orange Avenue, Ste. 400, Orlando, Florida 32801; **Lawson Lamar, State Attorney,** 415 N. Orange Avenue, Ste. 200, Orlando, Florida 32802-1673; and by mail, this _29th___ day of __March_____, 2012.

__/S/_____
Judicial Assistant