

Supreme Court of Florida

No. 59,054

STATE OF FLORIDA, Petitioner,

v.

FRANK J. BRADY, et al., Respondents.

[February 28, 1985]

ADKINS J.

This case is before us on remand from the United States Supreme Court following its decision on certiorari review of our earlier judgment in this case, reported as State v. Brady, 406 So.2d 1093 (Fla. 1981). The Supreme Court vacated the prior judgment of this Court, and ordered that this cause be remanded to us for further consideration in light of Oliver v. United States, 104 S.Ct. 1735 (1984); Florida v. Brady, 104 S.Ct. 2380 (1984).

In accordance with the Supreme Court's decision in Oliver, we hold that warrantless "open field" searches are proper, and that evidence received as a result thereof should not be suppressed. We remand this case to the district court with instructions to remand the same to the trial court for proceedings not inconsistent with this opinion.

It is so ordered.

BOYD, C.J., OVERTON, ALDERMAN, McDONALD, EHRLICH and SHAW, JJ.,
Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED.

Application for Review of the Decision of the District Court
of Appeal - Direct Conflict of Decisions

Fourth District - Case Nos. 78-2121 & 78-2771

Jim Smith, Attorney General, and Robert L. Bogen and Robert L.
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for Petitioner

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and Janet W. Freeman, West Palm Beach, Florida, for Frank J.
Brady; Steven M. Greenberg of Pertnoy and Greenberg, Miami,
Florida, for Ronald B. Elliott and Philip M. Eckart; Joel S.
Fass of Colodny and Fass, North Miami, Florida, for Hermogenes
Manuel; and Alan I. Karten, Miami, Florida, for David List,

Respondents