

# Supreme Court of Florida

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No. 64,652  
\_\_\_\_\_

STATE OF FLORIDA, Petitioner,

vs.

SHELTON PENSON DONALD, JR., Respondent.

[June 13, 1985]

EHRlich, J.

This case is before the Court pursuant to jurisdiction granted in article 5, section 3(b)(4), Florida Constitution. The question certified as being of great public importance is identical to that presented in State v. Phillips, 463 So.2d 1136 (Fla. 1985). On the authority of Phillips, we answer the certified question in the negative and quash the decision of the district court.

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

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 - Certified Great Public Importance

First District - Case No. AT-362

Jim Smith, Attorney General, Tallahassee, Florida, and  
Barbara Ann Butler, Assistant Attorney General, Jacksonville,  
Florida,

for Petitioner

Michael E. Allen, Public Defender, Gwendolyn Spivey and  
Michael J. Minerva, Assistant Public Defenders, Tallahassee,  
Florida,

for Respondent