

# Supreme Court of Florida

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No. 74,298

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TYRONE E. SHAW, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[November 30, 1989]

RARKETT, J.

We have for review Shaw v. State, 543 So.2d 469 (Fla. 4th DCA 1989), in which the district court affirmed Shaw's conviction and sentence on the authority of State v. Avery, 531 So.2d 182 (Fla. 4th DCA 1988), and certified the same question as it certified in Avery. We have discretionary jurisdiction. Art. V, § 3(b)(4), Fla. Const. For the reasons expressed in Bostick v. State, No. 70,996 (Fla. Nov. 30, 1989), we answer the certified question, as rephrased therein, in the affirmative, quash the opinion of the district court, and remand to the district court for proceedings consistent with Bostick.

It is so ordered.

EHRlich, C.J., and SHAW and KOGAN, JJ., Concur  
OVERTON, McDONALD and GRIMES, JJ., Dissent

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

Fourth District - Case No. 88-2739  
(Broward County)

Thomas F. Almon, Miami, Florida,  
for Petitioner

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