

Supreme Court of Florida

No. 74,315

STATE OF FLORIDA, Petitioner,

v.

CHARLES E. McCRAY, Respondent.

[March 1, 1990]

McDONALD, J.

We approve the district court's dismissing the state's appeal as untimely filed, State v. McCray, 544 So.2d 313 (Fla. 2d DCA 1989), because we have decided this issue in Fox v. District Court of Appeal, 553 So.2d 161 (Fla. 1989), and State v. Hieber, 553 So.2d 704 (Fla. 1989), adversely to the state.

It is so ordered.

EHRlich, C.J., OVERTON, SHAW, BARKETT, GRIMES and KOGAN, 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

Second District - No. 88-00163
(Polk County)

Robert A. Butterworth, Attorney General and David R. Gemmer,
Assistant Attorney General, Tampa, Florida,

for Petitioner

James Marion Moorman, Public Defender and Paul C. Helm, Assistant
Public Defender, Bartow, Florida,

for Respondent