

Supreme Court of Florida

No. 74,811

STATE OF FLORIDA, Petitioner,

vs .

JAMES KERKLIN, Respondent.

[September 13, 1990]

BARKETT, J.

We have for review Kerklín v. State, 548 So.2d 689 (Fla. 2d DCA 1989), which is in express and direct conflict with the Fifth District Court's decision of Franklin v. State, 526 So.2d 159 (Fla. 5th DCA 1988), approved in part, 545 So.2d 851 (Fla. 1989), disapproved in part, State v. Watts, 558 So.2d 994 (Fla. 1990). We have jurisdiction pursuant to article V, section 3(b)(3) of the Florida Constitution.

The issue presented here was resolved adversely to the state in Watts. For the reasons stated in Watts, we approve the decision of the district court.

It is so ordered.

SHAW, C.J., and OVERTON, McDONALD, EHRLICH, 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 - Case No. 88-00135

(Highlands County)

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for Petitioner

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