Supreme Court of Florida

No. 76,991

STATE OF FLORIDA,

ORIGINAL

Petitioner,

v.

DARNELL HEADINGS,

Respondent.

[October 10, 1991]

McDONALD, J.

Pursuant to article V, section 3(b)(4), Florida

Constitution, we accepted jurisdiction of Headings v. State, 568

So.2d 533 (Fla. 3d DCA 1990), in which the district court

certified the question of whether the inability of a criminal

defendant to pay costs is a defense to the assessment of costs

against that defendant. In State v. Vamper, 579 So.2d 730 (Fla.

1991), and State v. Beasley, 580 So.2d 139 (Fla. 1991), we held

that costs may be assessed without a determination as to the

defendant's ability to pay. We accordingly quash that part of

the opinion under review which denies the assessment of costs and remand for reconsideration in light of <u>Vamper</u> and <u>Beasley</u>. We do not disturb any other portion of the decision under review.

It is so ordered.

SHAW, C.J. and OVERTON, BARKETT, GRIMES, KOGAN and HARDING, 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 - Certified Great Public Importance

Third District - Case No. 89-2815 (Dade County)

Robert A. Butterworth, Attorney General and Ivy R. Ginsberg, Assistant Attorney General, Miami, Florida,

for Petitioner

Bennett H. Brummer, Public Defender and Valerie Jonas, Assistant Public Defender, Eleventh Judicial Circuit, Miami, Florida,

for Respondent