

Supreme Court of Florida

ORIGINAL

No. 77,611

STATE OF FLORIDA,

Petitioner,

vs.

MATTHEW KENNY,

Respondent.

[November 7, 1991]

PER CURIAM.

We have for review State v. Kenny, 576 So.2d 302 (Fla. 2d DCA 1991), based on express and direct conflict with Carter v. State, 571 So.2d 520 (Fla. 4th DCA 1990), Flowers v. State, 567 So.2d 1055 (Fla. 5th DCA 1990), and Walker v. State, 546 So.2d 764 (Fla. 5th DCA 1989). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const. We recently quashed Flowers and Carter and

approved cases that reached the same result as the court below. Flowers v. State, No. 76,854 (Fla. Oct. 3, 1991); Carter v. State, No. 77,434 (Fla. Oct. 10, 1991); State v. Worley, Nos. 77,417, 77,415 & 77,551 (Fla. Oct. 10, 1991). Accordingly, the opinion below is approved. We disapprove the opinion in Walker.

It is so ordered.

SHAW, C.J. and OVERTON, McDONALD, 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 - Direct Conflict of Decisions

Second District - Case No. 90-02325

(Pinellas County)

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for Petitioner

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Florida,

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