IN THE SUPREME COURT OF FLORIDA

CASE NO. 78,033

THE STATE OF FLORIDA

Petitioner

-vs-

TROY SINGLETON

Respondent

ON PETITION FOR DISCRETIONARY REVIEW
CONFLICT

PETITIONER'S BRIEF ON JURISDICTION

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INTRODUCTION

The Petitioner, **THE STATE OF FLORIDA,** was the Appellee below. The Respondent, **TROY SINGLETON,** was the Appellant below. The parties will be referred to as they stand before this Court. The symbol "A" will designate the Appendix to this brief.

STATEMENT OF THE CASE AND FACTS

The Respondent was charged, in one information with grand theft and by a second information with burglary and another count of grand theft. (A-1). Prior to trial, Respondent filed a motion to suppress evidence obtained from an automobile. The trial court denied the motion to suppress on the grounds that Respondent did not have standing to challenge the lawfulness of the search of the automobile. The trial court found that Respondent had driven the car without permission or consent of the owner and that at the time the search occurred, Respondent was not driving the vehicle (A-1,2). Thereafter, Respondent pled nolo contendre to the single grand theft charge and was, after a jury trial, convicted of burglary and grand theft. (A-1).

On appeal to the Third District, the Respondent challenged the standing ruling. The Third District held that, even though the Respondent had stolen the car and at the time of the search was no longer driving the car, the Respondent still had standing to challenge the lawfulness of the search of the car. The Third District then reversed and remanded for a suppression hearing. (A-1,2).

Petitioner then timely filed its Notice to Invoke the Discretionary Review of this Court. Petitioner also filed with the Third District a Motion to Stay/Recall Mandate Pending Review.

QUESTION PRESENTED

WHETHER THE DECISION IN THE INSTANT CASE EXPRESSLY AND DIRECTLY CONFLICTS WITH THIS COURT'S DECISION IN NELSON V. STATE 16 FLW S225 (FLA. MARCH 28, 1991) AND THE FIFTH DISTRICT'S DECISION IN TONGUE V. STATE 544 SO.2D 1173 (FLA. 5 DCA 1989)?

SUMMARY OF THE ARGUMENT

The Third District, in the instant case, has held that the driver of a stolen vehicle, who no longer is in possession of the vehicle, has standing to challenge the lawfulness of the search of the vehicle. This holding expressly and directly conflicts with previous decisions of the appellate courts of this State which hold that the driver of a stolen vehicle only has standing to challenge the lawfulness of the seizure of his person but does not have standing to challenge the lawfulness of the search of the stolen vehicle. Since this conflict is evident from the face of the opinion, this Court should exercise its discretionary jurisdiction.

ARGUMENT

THE DECISION IN THE INSTANT CASE EXPRESSLY AND DIRECTLY CONFLICTS WITH THE COURT'S DECISION IN NELSON V. STATE 16 FLW S225 (FLA. MARCH 28, 1991) AND THE FIFTH DISTRICT'S DECISION, TONGUE V. STATE, 544 SO.2D 1173 (FLA. 5 DCA 1989).

In the instant case, the Third District held that the driver of a stolen automobile who no longer has possession of that automobile, has standing to challenge the lawfulness of the search of that automobile. This holding is in direct and express conflict with Nelson v. State 16 FLW S225 (Fla. March 28, 1991) and Tongue v. State 544 So.2d 1173 (Fla. 5 DCA 1989), both which held that the driver of a stolen automobile only has standing to challenge the lawfulness of the seizure of his person but not the lawfulness of the search of the stolen vehicle.

In Nelson, the defendant was stopped as he was driving out of the driveway of a residence onto the street. After a check revealed the car was stolen, the defendant was arrested. The lower courts held that the defendant who had no right to be in the car, had no right to challenge its stop. This Court quashed and held that, under Terry v. Ohio 392 U.S. 1 (1968), the defendant had been seized and therefore he had the standing to challenge only his seizure. Nowhere in the opinion does this Court hold that the defendant had standing to challenge the lawfulness of the search of the stolen vehicle.

Likewise, in Tongue, the Fifth District recognized the distinction between the stop of the defendant and the subsequent search of the vehicle. There the Court understood that a defendant always has standing to challenge the lawfulness of the seizure of his person. However, this standing does not extend to the challenge of the lawfulness of the search of the automobile which defendant stole. 544 So.2d at 1175.

> (2) We believe the controlling principle of law applicable to this case is to be found in Rakas v. Illinois, 439 U.S. 128, 140, 99 S.Ct. 421, 429, 58 L.Ed.2d 387 (1978):
>
> > A person who is aggrieved by an illegal search and seizure only through the introduction of damaging evidence secured by a search of a third person's premises or property has not had any of his Fourth Amendment rights infringed.
>
> 439 U.S. at 134, 99 S.CT. at 425. It has been held that an automobile thief cannot challenge an unlawful search or seizure of the stolen car in his possession. Cameron v. State, 112 So.2d 864 (Fla. 1st DCA 1959). As stated in footnote 12 of Rakas:
>
> > Obviously, however, a "legitimate" expectation of privacy by definition means more than a subjective expectation of not being discovered. A burglar plying his trade in a summer cabin during the off season may have a thoroughly justified subjective expectation of privacy, but it is not one which the law recognizes as "legitimate." His presence, in the words of Jones [v. United States], 362 U.S. [257], at 267, 80 S.Ct. [725], at 734 [4 L.Ed.2d 697 (1960)], is "wrongful"; his expectation is not "one that society is prepared to recognize as 'reasonable.'" Katz v. United States, 389 U.S. [347], 361, 88 S.Ct. [507], at 516 [19 L.Ed.2d 576 (1967)] (Harlan, J., concurring).

> (3) In the instant case, no physical evidence was taken from Tongue's person. He had no legitimate expectation of privacy in the stolen vehicle, nor any legal right to remove it from the scene even had he not been personally detained or arrested. Thus, no constitutionally protected interest was infringed by the search.

The instant case is no different than Tongue. Here no physical evidence was taken from Respondent's person, the only area where he had a legitimate expectation of privacy. Since he had no legitimate expectation of privacy in the stolen vehicle, he did not have any constitutionally protected interest in the vehicles search. Therefore, the Third District's holding otherwise is erroneous and in conflict with the previously cited cases.

CONCLUSION

Based on the foregoing, Petitioner submits that the instant decision expressly and directly conflicts with those cited herein and respectfully requests this Court to exercise its discretion and accept jurisdiction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing BRIEF OF PETITIONER ON JURISDICTION was furnished by mail to **LOUIS CAMPBELL**, Attorney for Respondent, 1351 N.W. 12th Street, Miami, Florida 33125, on this 3 day of June, 1991.

MICHAEL J. NEIMAND
Assistant Attorney General

/blm

IN THE SUPREME COURT OF FLORIDA

CASE NO.

THE STATE OF FLORIDA

Petitioner

-vs-

TROY SINGLETON

Respondent

ON PETITION FOR DISCRETIONARY REVIEW
CONFLICT

APPENDIX

90-132727-B
90-132725-B

NOT FINAL UNTIL TIME EXPIRES
TO FILE REHEARING MOTION
AND, IF FILED, DISPOSED OF.

IN THE DISTRICT COURT OF APPEAL

OF FLORIDA

THIRD DISTRICT

JANUARY TERM, A.D. 1991

TROY SINGLETON, **

Appellant, **

vs. ** CASE NO. 90-2184
90-2177

THE STATE OF FLORIDA, **

Appellee. **

Opinion filed May 7, 1991.

Appeals from the Circuit Court for Monroe County, Richard G. Payne, Judge.

Bennett H. Brummer, Public Defender, and Louis Campbell, Assistant Public Defender, for appellant.

Robert A. Butterworth, Attorney General, and Patricia Ann Ash, Assistant Attorney General, for appellee.

Before BARKDULL, NESBITT and LEVY, JJ.

PER CURIAM.

This is an appeal from a conviction for grand theft, entered after a nolo contendre plea, and convictions for burglary and grand theft, entered after a jury trial.

Prior to the Supreme Court's opinion in Nelson v. State, 16 F.L.W. S225, ___ So.2d ___ (Fla. March 28, 1991), Case No. 74,421, the trial court denied a Motion to Suppress, finding no standing. The Order reads in part as follows:

"ORDERED AND ADJUDGED that said Motion be, and the same is hereby denied. Defendant did not have the permission or consent of the owner of the subject vehicle and was not driving said vehicle at the time of said search and therefore lacks the requisite legal standing to challenge the search thereof. U.S. v. Peters, 791 F.2d 1270."

We reverse upon the holding in Nelson v. State, supra, and return the matter to the trial court for further proceedings, commencing with a hearing on the Motion to Suppress. We also reverse the Order denying the return of the appellant's property, in light of our initial ruling, without prejudice.

Reversed and remanded with directions.

other than the named party pays or advances those costs." We quash the decision of the district court below and direct that this action be remanded to the trial court for further proceedings consistent with our opinion in *Aspen*.

It is so ordered. (SHAW, C.J., and McDONALD, BARKETT, GRIMES, KOGAN and HARDING, JJ., concur.)

[1]We have jurisdiction pursuant to article V, section 3(b)(4), of the Florida Constitution.

* * *

Criminal law—Search and seizure—Vehicle stop—Defendant has standing to challenge his seizure although defendant was stopped while driving a stolen vehicle

VINCENT NELSON, Petitioner, v. STATE OF FLORIDA, Respondent. Supreme Court of Florida. Case No. 74,421. March 28, 1991. Application for Review of the Decision of the District Court of Appeal - Direct Conflict of Decisions. Fourth District - Case No. 88-0855 (Palm Beach County). Richard L. Jorandby, Public Defender and Anthony Calvello, Assistant Public Defender, Fifteenth Judicial Circuit, West Palm Beach, Florida, for Petitioner. Robert A. Butterworth, Attorney General and Patricia G. Lampert, Assistant Attorney General, West Palm Beach, Florida, for Respondent.

(SHAW, C.J.) We review *Nelson v. State*, 546 So. 2d 49 (Fla. 4th DCA 1989), based on conflict with *State v. Scott*, 481 So. 2d 40 (Fla. 3d DCA 1985), *review denied*, 492 So. 2d 1335 (Fla.), *cert. denied*, 479 U.S. 931 (1986), and *Wulff v. State*, 533 So. 2d 1191 (Fla. 2d DCA 1988). We have jurisdiction pursuant to article V, section 3(b)(3), Florida Constitution.

Vincent Nelson was stopped on April 1, 1987, as he was driving a car out of the driveway of a residence onto the street. A police officer effectuated the stop by placing his police car in front of the exiting car, and petitioner was arrested when a subsequent license tag check disclosed that the car was stolen. Petitioner entered a "no contest" plea, reserving the right to appeal the trial judge's ruling, affirmed by the district court, that he lacked standing to challenge the legality of his stop.

Terry v. Ohio, 392 U.S. 1, 16 (1968), teaches us that there is a seizure whenever a police officer accosts an individual and restrains his freedom. *See also Delaware v. Prouse*, 440 U.S. 648, 653-54 (1979) (stopping an automobile and detaining its occupant, even briefly, constitutes a seizure within the meaning of the fourth amendment to the United States Constitution); *State v. Jones*, 483 So. 2d 433, 435 (Fla. 1986) (same). The constitution forbids unreasonable seizures.[1] Therefore, under normal circumstances, petitioner would be free to challenge the reasonableness of his seizure. The issue, as posed by the ruling below,[2] is whether petitioner can be denied the right to challenge the reasonableness of his seizure because he was stopped while driving a stolen car. We hold that he cannot, and join our sister court, which, when faced with this identical issue, held:

> Stopping a motor vehicle and detaining the occupant constitutes a seizure within the meaning of the fourth and fourteenth amendments, even though the stop is limited and the resulting detention is quite brief. As such the stop must comport with objective standards of reasonableness, whether that amounts to probable cause or a less stringent test. *Rakas v. Illinois*, [439 U.S. 128 (1978)], does not teach otherwise,[3] for in that case the defendants did not question the constitutionality of the initial stop of their car. The defendant, as an occupant of the truck, has an interest in continuing his travels without government intrusion. Thus his fourth amendment rights could have been violated by the stopping of the truck even though the truck was stolen.

State v. Conger, 183 Conn. 386, 390-91, 439 A.2d 381, 384 (1981) (citations omitted).

The cases relied upon by the state, *United States v. Lanford*, 838 F.2d 1351 (5th Cir. 1988); *United States v. Hensel*, 672 F.2d 578 (6th Cir.), *cert. denied*, 457 U.S. 1107 (1982); and *United States v. Hargrove*, 647 F.2d 411 (4th Cir. 1981), involve the search and seizure of property in which the defendant had no ownership or possessory interest, therefore the defendant lacked standing to assert a fourth amendment right to privacy in the property. The instant case, by contrast, involves the seizure of Nelson himself. This obvious distinction was recognized in *Lanford*, where the court, while holding that Lanford lacked standing to challenge the search of property not his own, noted that: "Lanford does, of course, have standing to challenge the search of his person." *Lanford*, 838 F.2d at 1353.

The state also contends that Nelson should be denied standing because there is no valuable social purpose served by extending the fourth amendment's protection to a criminal. We disagree. The valuable social purpose served by extending the constitution's protection to all persons, even a criminal, aptly was stated in *Mapp v. Ohio*, 367 U.S. 643, 659 (1961), *limited on other grounds, United States v. Leon*, 468 U.S. 897 (1984): "Nothing can destroy a government more quickly than its failure to observe its own laws, or worse, its disregard of the charter of its own existence."

We conclude that the driver of a stolen vehicle has standing to challenge his stop. We emphasize that we are addressing only the issue of standing, the dispositive issue below. We approve *Wulff* and *Scott*,[4] quash *Nelson*, and remand for proceedings consistent with this opinion.

It is so ordered. (OVERTON, BARKETT and KOGAN, JJ., concur. GRIMES, J., concurs with an opinion, in which McDONALD, J., concurs.)

[1]The fourth amendment to the United States Constitution provides:

> The right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

[2]The district court, in holding that petitioner lacked standing, reasoned: "A driver of a stolen car has no expectation of privacy. . . . 'Things' placed in a stolen car by a driver are not afforded Fourth Amendment protection, therefore a driver is not afforded Fourth Amendment protection when he 'places' himself in a stolen car." Nelson v. State, 546 So.2d 49, 49-50 (Fla. 4th DCA 1989) (citation omitted).

[3]Neither does Minnesota v. Olson, 110 S.Ct. 1684 (1990), teach otherwise.

[4]Wulff v. State, 533 So.2d 1191 (Fla. 2d DCA 1988), held that an auto passenger has standing to challenge the lawfulness of the auto's stop despite the presence of contraband in it. State v. Scott, 481 So.2d 40 (Fla. 3d DCA 1985), *review denied*, 492 So.2d 1335 (Fla.), *cert. denied*, 479 U.S. 931 (1986), held that a driver of a cocaine-bearing auto has standing to challenge his illegal arrest despite not being the auto's owner.

(GRIMES, J., concurring.) I am constrained to concur in this opinion because otherwise there would be nothing to prevent the police from stopping any car under any circumstances in the hope of occasionally finding a stolen one. (McDONALD, J., concurs.)

* * *

Taxation—Ad valorem—Assessment—When determining the fair market value of income-producing property which is encumbered by a long-term submarket lease, the assessor must consider but not necessarily use each of the factors set out in section 193.011, Florida Statutes—Ultimate method of valuation employed and the weight, if any, to be given each factor considered is within discretion of the assessor—Resulting valuation must represent the value of all interests in the property, the fair market value of the unencumbered fee—Error to declare portion of assessment to be null and void where taxpayer failed to show that appraiser did not follow requirements of law or that assessed value is not within range of reasonable appraisals

RONALD J. SCHULTZ, etc., et al, Petitioners, vs. TM FLORIDA-OHIO

file subject to work product doctrine and attorney-client privilege.

Certiorari granted; order quashed.

Pretrial Procedure ⇐358

In insured's first-party bad-faith action against insurer, insurer was not obligated to produce portions of claim file subject to work product doctrine and attorney-client privilege. West's F.S.A. § 624.155(1)(b)1.

John Franklin Wade of Kane & Williams, Orlando, for petitioner.

Scott L. Sterling, Orlando, for respondents.

ORFINGER, Judge.

State Farm, etc. seeks certiorari review of a discovery order requiring it to produce its entire claim file to its insured who has filed a first party bad faith action against the insurer. We grant the writ and quash the order.

Since the entry of the order below, the Florida Supreme Court has held, in *Kujawa v. Manhattan National Life Insurance Co.*, 541 So.2d 1168 (Fla.1989) that in a first party bad faith action brought by an insured against his insurer pursuant to section 624.155(1)(b)1, Florida Statutes (1987), the relationship between the parties is adversarial rather than fiduciary, and the insurer is not required to produce those portions of the claim file which are subject to the work product doctrine and attorney-client privilege.

In view of the holding in *Kujawa*, the trial court departed from the essential requirements of law, and we therefore quash the order under review.

Certiorari GRANTED; Order QUASHED.

DAUKSCH and COBB, JJ., concur.

Kenneth Matthew TONGUE, Appellant,

v.

STATE of Florida, Appellee.

No. 88–592.

District Court of Appeal of Florida, Fifth District.

June 15, 1989.

Defendant was convicted in the Circuit Court, Orange County, Michael F. Cycmanick, J., of second-degree murder, and he appealed. The District Court of Appeal, held that defendant who was detained while driving murder victim's automobile had no legitimate expectation of privacy in the vehicle and thus no legal right to complain of its search which led to discovery of victim's body in the trunk.

Affirmed.

1. Arrest ⇐63.5(9)

Defendant could not complain about his continued detention after he identified himself with fictitious name where his initial detention, at toll booth to make written pledge to pay toll in the future, was neither improper nor challenged.

2. Criminal Law ⇐394.5(2)

Person who is aggrieved by illegal search and seizure only through introduction of damaging evidence secured by search of third person's premises or property has not had any of his Fourth Amendment rights infringed. U.S.C.A. Const. Amend. 4.

3. Searches and Seizures ⇐165

Defendant who was detained while driving murder victim's automobile had no legitimate expectation of privacy in the vehicle and thus no legal right to complain of its search which led to discovery of victim's body in the trunk.

James B. Gibson, Public Defender, and Brynn Newton, Asst. Public Defender, Daytona Beach, for appellant.

Digest

Robert A. Butterworth, Atty. Gen., Tallahassee, and Kellie A. Nielan, Asst. Atty. Gen., Daytona Beach, for appellee.

PER CURIAM.

The appellant, Kenneth Matthew Tongue, was convicted of second degree murder. He appeals the trial court's denial of his motions to suppress evidence and inculpatory statements. He argues that his arrest by Maryland police officers was illegal because it was based on erroneous information, and therefore any evidence produced by the subsequent search of his person and the vehicle he was driving should have been suppressed. He also argues that he had "standing" to contest his arrest[1] and the search of the vehicle he was driving.

The evidence at trial showed that Tongue was apprehended through a chain of bizarre circumstances. He was detained at an automated toll booth in Maryland while driving an automobile belonging to the deceased victim, Steven Rosa. Tongue did not have money to pay the toll, and had no driver's license or registration to serve as identification for the purpose of completing the pledge card. When asked his name Tongue identified himself as one Thomas Louis Noll. A computer check reported that Noll's Pennsylvania driver's license had been suspended, and Tongue, alias Noll, was thereupon arrested for driving with a suspended license. Tongue was given the standard *Miranda* warnings, and then asked to empty his pockets. Credit cards belonging to Steven Rosa were among the items Tongue emptied from his pocket. Tongue said the cards and the car belonged to a friend. The car was impounded and inventoried. Rosa's identification was found in the front seat, and the body in the trunk. Tongue was again read his *Miranda* rights, and he shortly thereafter confessed to strangling Rosa in Florida and placing his body in the trunk.

A subsequent check of Noll's driving record in Pennsylvania established that the suspension of his license had been prematurely entered into the computer and, in fact, the license was not suspended at the time of the check. Based upon this discovery, Tongue contends on appeal that his arrest was illegal and that the evidence seized from the car and the incriminating statements to the arresting officer should have been suppressed under *Albo v. State*, 477 So.2d 1071 (Fla. 3d DCA 1985). In *Albo* evidence was seized as a result of Albo's arrest for driving on a suspended license. In fact, the license had been reinstated at the time of the arrest. The Third District, relying on the exclusionary rule and seeking to deter police reliance on information they could and should have corrected, reversed the trial court's denial of Albo's motion to suppress. It should be noted, however, that there was no question as to Albo's legal possession of the automobile.

Tongue also relies on *State v. Scott*, 481 So.2d 40 (Fla. 3d DCA 1985), which involved contraband discovered in the search of a car which was driven, but not owned, by Scott. The facts recited in *Scott* are skeletal, at best, but we assume that Scott was lawfully in control of the automobile at the time, since the Third District opinion relies on Justice Terrell's opinion in *Kersey v. State*, 58 So.2d 155 (Fla.1952) and on *Hansen v. State*, 385 So.2d 1081 (Fla. 4th DCA 1980), *cert. denied*, 392 So.2d 1379 (Fla.1980). Neither *Kersey* nor *Hansen* involved the seizure and search of a stolen vehicle, the factual scenario of the instant case.

[1] There has been no challenge to Officer Panowitz's right to initially detain Tongue, ascertain his identity[2] and obtain from him a written "pledge" to pay the toll in the future. In light of the fact that the initial period of detention to obtain the pledge is unchallenged and was apparently proper, Tongue cannot be heard to com-

1. It goes without saying that any defendant *always* has standing to contest the lawfulness of seizure of his person because of the liberty interest involved. *See Terry v. Ohio*, 392 U.S. 1, 88 S.Ct. 1868, 20 L.Ed.2d 889 (1968).

2. *See Harper v. State*, 532 So.2d 1091 (Fla. 3d DCA 1988).

plain about the officer's decision to continue that detention when Tongue himself prompted the need for it by using a fictitious name. We need not speculate whether under Maryland law, and absent the erroneous computer information, Tongue's earlier failure to produce a valid license or use of a fictitious name would alone constitute an independent crime for which Tongue could be arrested.[3] It is enough that the continued detention prompted by Tongue's misrepresentations did not constitute an unreasonable seizure of his person under the fourth amendment. Having concluded that the period of custodial detention was reasonable, the only remaining argument available to Tongue is that the officers exceeded the permissible scope of search incident to their *Terry* detention of his person.

[2] We believe the controlling principle of law applicable to this case is to be found in *Rakas v. Illinois*, 439 U.S. 128, 140, 99 S.Ct. 421, 429, 58 L.Ed.2d 387 (1978):

> A person who is aggrieved by an illegal search and seizure only through the introduction of damaging evidence secured by a search of a third person's premises or property has not had any of his Fourth Amendment rights infringed.

439 U.S. at 134, 99 S.Ct. at 425. It has been held that an automobile thief cannot challenge an unlawful search or seizure of the stolen car in his possession. *Cameron v. State*, 112 So.2d 864 (Fla. 1st DCA 1959). As stated in footnote 12 of *Rakas:*

> Obviously, however, a "legitimate" expectation of privacy by definition means more than a subjective expectation of not being discovered. A burglar plying his trade in a summer cabin during the off season may have a thoroughly justified subjective expectation of privacy, but it is not one which the law recognizes as "legitimate." His presence, in the words of *Jones* [*v. United States*], 362 U.S. [257], at 267, 80 S.Ct. [725], at 734 [4 L.Ed.2d 697 (1960)], is "wrongful"; his expectation is not "one that society is prepared to recognize as 'reasonable.'" *Katz v. United States*, 389 U.S. [347], 361, 88 S.Ct. [507], at 516 [19 L.Ed.2d 576 (1967)] (Harlan, J., concurring).

[3] In the instant case, no physical evidence was taken from Tongue's person. He had no legitimate expectation of privacy in the stolen vehicle, nor any legal right to remove it from the scene even had he not been personally detained or arrested. Thus, no constitutionally protected interest was infringed by the search.

Since Tongue had no legitimate privacy interests infringed by the search of Rosa's car, he cannot complain in regard to the discovery of Rosa's body. That discovery provided probable cause for Tongue's valid arrest on suspicion of murder, after which he was again Mirandized and confessed to that murder. That confession was admissible against him because it was the fruit of a valid arrest following a valid detention, and there has been no showing that the confession was otherwise coerced or involuntary. *See Rawlings v. Kentucky*, 448 U.S. 98, 100 S.Ct. 2556, 65 L.Ed.2d 633 (1980).

Accordingly, the trial court did not err in denying the appellant's motion to suppress.

AFFIRMED.

DAUKSCH, COBB and GOSHORN, JJ., concur.

3. *See* § 843.02, Fla.Stat. (1987); *Steele v. State*, 537 So.2d 711 (Fla. 5th DCA 1989).

WEST KEY NUMBER SYSTEM

B.E.O., A Child, Petitioner,

v.

STATE of Florida, et al., Respondents.

No. 89–1022.

District Court of Appeal of Florida, Fifth District.

June 15, 1989.

Digest

Juvenile, who had been placed in detention for delinquent act and adjudicated de-