

# Supreme Court of Florida

**ORIGINAL**

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No. 79,151

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RICHARD L. DUGGER, etc.,  
Petitioner,

vs.

HAROLD CARPENTER HUBBARD,  
Respondent.

[December 10, 1992]

OVERTON, J.

In Dugger v. Hubbard, 590 So. 2d 1031, 1032 (Fla. 1st DCA 1991), the First District Court of Appeal certified the following question as one of great public importance:

MAY THE DEPARTMENT OF CORRECTIONS RELY ON INFORMATION TAKEN FROM AN ARREST REPORT WHICH IS INCLUDED IN THE [PRESENTENCE INVESTIGATION REPORT] AS THE SOLE BASIS FOR DETERMINING AN INMATE'S ELIGIBILITY FOR PROVISIONAL CREDITS PURSUANT TO SECTION 944.277, FLORIDA STATUTES[?]

We have jurisdiction pursuant to article V, section 3(b)(4), Florida Constitution.

We answered the identical question in the affirmative in Dugger v. Grant, No. 78,844 (Fla. Dec. 10, 1992). In accordance with that decision, we quash the decision of the district court in the instant case.

It is so ordered.

MCDONALD, GRIMES and HARDING, JJ., concur.  
ROGAN, J., dissents with an opinion, in which BARKETT, C.J., and SHAW, J., concur.

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

KOGAN, J., dissenting.

I respectfully dissent. I would answer the question certified in the negative and approve the decision below for the reasons stated in my dissent in *Dugger v. Grant*, No. 78,844 (Fla. Dec. 10, 1992).

BARKETT, C.J., and SHAW, J., concur.

Application for Review of the Decision of the District Court of  
Appeal - Certified Great Public Importance

First District - Case No, 90-2166

(Leon County)

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