

Supreme Court of Florida

ORIGINAL

No. 79,729

REGINALD MILLER, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[February 11, 1993]

OVERTON, J.

We have for review Miller v. State, 595 so, 2d 1112 (Fla. 26 DCA 1992), in which the district court certified the same question we answered in the negative in Gayman v. State, Nos. 78,547 & 79,602 (Fla. Feb. 11, 1993).¹ For the reasons expressed in Gayman, we approve the decision below.

It is so ordered.

¹ We have jurisdiction. Art, V, § 3(b)(4), Fla. Const.

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

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

BARKETT, C.J., dissenting.

I dissent for the reasons expressed in my separate opinion in Gayman v. State, Nos. 78,547 & 79,602 (Fla. Feb. 11, 1993).

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

Second District - Case No. 91-02157

(Hillsborough County)

James Marion Moorman, Public Defender and Megan Olson, Assistant
Public Defender, Tenth Judicial Circuit, Bartow, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, and Ronald Napolitano,
Assistant Attorney General, Tampa, Florida,

for Respondent