

# Supreme Court of Florida

**ORIGINAL**

No. 79,823

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ROY NEBRASKA SCOTT, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[December 3, 1992]

OVERTON, J.

We have for review *Scott v. State*, 600 So. 2d 1 (Fla. 1st DCA 1992), in which the district court certified the same questions we recently answered in the negative in *Tillman v. State*, No. 78,715 (Fla. Nov. 19, 1992). We choose not to consider the other issues raised by the petitioner since they were not discussed by the district court in its opinion. For the reasons expressed in *Tillman*, we approve the decision of the district court.

It is so ordered.

McDONALD, SHAW, GRIMES and HARDING, JJ., concur.

KOGAN, J., **dissents** with an opinion, in which BARKETT, C.J.,  
**concur.**

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

KOGAN, J., dissenting.

I dissent on the basis of my dissenting opinion in Tillman v. State, No. 78,715 (Fla. Nov. 19, 1992). The petitioner has only been convicted of one violent crime and therefore cannot be a habitual violent felony offender.

BARKETT, C.J., concurs,

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

First District - Case No. 91-1501

(Duval County)

Nancy A. Daniels, Public Defender and Kathleen Stover, Assistant  
Public Defender, Second Judicial Circuit, Tallahassee, Florida,

for Petitioner

Robert A. Butterworth, Attorney General; and James W. Rogers,  
Bureau Chief, Criminal Appeals, Assistant Attorney General and  
Sara D. Baggett, Assistant Attorney General, Tallahassee,  
Florida,

for Respondent