

# Supreme Court of Florida

**ORIGINAL**

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No. 79,950

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TYRONE FOSTER,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

[February 4, 1993]

PER CURIAM.

We have for review Foster v. State, 596 So. 2d 1099 (Fla. 5th DCA 1992), which expressly construes the double jeopardy provision of the Florida Constitution. We have jurisdiction. Art. V, § 3(b)(3), Fla. Const. On March 30, 1988, Tyrone Foster and an accomplice attacked and took the wallet of a person

outside a convenience store. Foster now seeks review of the district court's affirmance of his convictions and sentences for aggravated battery and robbery. We note that the case is governed by our analysis in Carawan v. State, 515 So. 2d 161 (Fla. 1987), since the offenses occurred prior to the effective date of Carawan's legislative abrogation. See State v. Smith, 547 So. 2d 613 (Fla. 1989). Because we agree with the court below that the two offenses here address separate evils, we approve the decision below under Carawan's rationale.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, SHAW, 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 - Statutory Validity

Fifth District - Case No. 90-1297

(Marion County)

James B. Gibson, Public Defender and M.A. Lucas, Assistant Public  
Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Petitioner

Robert A. Butterworth, Attorney General and Bonnie Jean Parrish,  
Assistant Attorney General, Daytona Beach, Florida,

for Respondent