

# Supreme Court of Florida

## ORIGINAL

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No. 80,058

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STATE OF FLORIDA, Petitioner,

vs.

BRIAN LEWIS, Respondent.

[October 14, 1993]

OVERTON, J.

This cause is before the Court to review Lewis v. State, 597 So. 2d 842 (Fla. 3d DCA 1992), in which the Third District Court of Appeal determined that the respondent, Brian Lewis, was entrapped as a matter of law based on the objective test for entrapment set forth by this Court in Cruz v. State, 465 So. 2d 516 (Fla.), cert. denied, 473 U.S. 905, 105 S. Ct. 3527, 87 L. Ed. 2d 652 (1985). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

Based on our recent determination in Munoz v. State, No. 78,900 (Fla. Oct. 14, 1993), that section 777.201, Florida Statutes (1987), abolished the objective test in Cruz, we quash the district court's decision and remand this cause to the district court for further proceedings consistent with the dictates of our decision in Munoz.

It is so ordered.

BARKETT, C.J., and 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 - Direct Conflict of Decisions  
Third District - Case No. 91-1072

(Dade County)

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for Petitioner

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