

# Supreme Court of Florida

**ORIGINAL**

---

No. 80,908

---

STATE OF FLORIDA, Petitioner,

vs.

ICELVIN SMITH, Respondent.

[April 8, 1993]

SHAW, J.

We have for review Smith v. State, 608 So. 2d 567 (Fla. 1st DCA 1992), wherein the court certified a question of great public importance. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const. We have since answered the question in State v. Rucker, 18 Fla. L. Weekly S93 (Fla. Feb. 4, 1993). We quash Smith and remand for proceedings consistent with Rucker.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, 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 - Certified Great Public Importance

First District - Case No. 91-3620

(Hamilton County)

Robert A. Butterworth, Attorney General; and James W. Rogers,  
Bureau Chief - Criminal Appeals, and Joe S. Garwood, Assistant  
Attorney General, Tallahassee, Florida,

for Petitioner

Nancy A. Daniels, Public Defender and P. Douglas Brinkmeyer,  
Assistant Public Defender, Second Judicial Circuit, Tallahassee,  
Florida,

for Respondent