

**SUPREME COURT OF FLORIDA**

**R.W., a child, Petitioner, v. STATE OF FLORIDA, Respondent.**

**No. 82,592**

**December 15, 1994, Decided**

PER CURIAM.

We have for review *R.W. v. State*, 625 So. 2d 1324 (Fla. 5th DCA 1993), which expressly relied upon a case pending review in this Court. *B.H. v. State*, 622 So. 2d 615 (Fla. 5th DCA 1993), approved in part, 19 Fla. L. Weekly S610 (Fla. Nov. 23, 1994). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.; see *Jollie v. State*, 405 So. 2d 418 (Fla. 1981). The decision below is approved in light of our opinion in *B.H.*

It is so ordered.

GRIMES, C.J., OVERTON and WELLS, JJ., and McDONALD, Senior Justice, concur.

HARDING, J., concurs in part and dissents in part with an opinion, in which KOGAN, J., concurs.

KOGAN, J., dissents with an opinion, in which SHAW, J., concurs.

**CONCURBY:** HARDING (In Part)

**DISSENTBY:** HARDING (In Part); KOGAN

**DISSENT:**

HARDING, J., concurring in part and dissenting in part.

I concur in part and dissent in part for the reasons stated in my separate opinion to *B.H., a child v. State*, No. 82,361 (Fla. Oct. 21, 1994) (Harding, J., concurring in part, dissenting in part).

KOGAN, J., concurs. KOGAN, J., dissenting.

I dissent for the reasons stated in my dissent to *B.H.*

SHAW, J., concurs.

**JUDGES:** GRIMES, C.J., OVERTON and WELLS, JJ., and McDONALD, Senior Justice, concur. HARDING, J., concurs in part and dissents in part with an opinion, in which KOGAN, J., concurs. KOGAN, J., dissents with an opinion, in which SHAW, J., concurs.

**COUNSEL:** James B. Gibson, Public Defender and Susan A. Fagan, Assistant Public Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Petitioner.

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for Respondent.