

**SUPREME COURT OF FLORIDA**

**M.T., a child, Petitioner, v. STATE OF FLORIDA, Respondent.**

**No. 82,638**

**December 22, 1994, Decided**

PER CURIAM.

We have for review *M.T. v. State*, 623 So. 2d 1252 (Fla. 5th DCA 1993), which cited as authority a case pending review in this Court, *B.H. v. State*, 622 So. 2d 615 (Fla. 5th DCA 1993), *aff'd in part*, 645 So. 2d 987, 1994 Fla. LEXIS 1842, 19 Fla. L. Weekly S 610 (Fla. 1994). We have jurisdiction, art. V, § 3(b)(3), Fla. Const., and approve the decision on authority of 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.

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., dissenting.

I dissent for the reasons stated in my separate opinion in *B.H.*, 645 So. 2d 987, 1994 Fla. LEXIS 1842, 19 Fla. Law W. S 610 (Fla. 1994)(Kogan, J., concurring in part, dissenting in part).

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.

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

**COUNSEL:** James B. Gibson, Public Defender and Brynn Newton, Assistant Public Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

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for Respondent.