

SUPREME COURT OF FLORIDA

STATE OF FLORIDA, Petitioner, v. M.S.P., Respondent.

No. 84149

January 12, 1995, Decided

Application for Review of the Decision of the District Court of Appeal - Certified Great Public Importance Second District - Case No. 92-02654 (Polk County).

PER CURIAM.

We have for review the decision in *M.S.P. v. State*, 640 So. 2d 1202 (Fla. 2d DCA 1994), which certified conflict with the opinion in *B.H. v. State*, 622 So. 2d 615 (Fla. 5th DCA 1993). We have jurisdiction. Art. V, § 3(b)(4), Fla. Const. The decision below is quashed and the case remanded for reconsideration in light of our opinion in *B.H. v. State*, 645 So. 2d 987, 1994 Fla. LEXIS 1842, 19 Fla. L. Weekly S 610 (Fla. 1994).

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.

CONCUR BY: HARDING (In Part)

DISSENT BY: 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. v. State*, 19 Fla. L. Weekly S610 (Fla. Nov. 23, 1994) (Harding, J., concurring in part, dissenting in part).

KOGAN, J., dissenting.

I dissent for the reasons expressed in my separate opinion in *B.H.*

SHAW, J., concurs.

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.

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for Petitioner.

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for Respondent.