

# Supreme Court of Florida

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No. 84,427

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STATE OF FLORIDA,

Petitioner,

vs.

DEWAYNE SMITH,

Respondent.

[July 20, 1995]

SHAW, J.

We have for review Smith v. State, 642 So. 2d 69 (Fla. 5th DCA 1994), based on conflict with Ashley v. State, 614 So. 2d 486 (Fla. 1993). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

Our decision in State v. Blackwell, No. 84,071 (Fla. July 20, 1995), controls. We quash Smith and remand for proceedings consistent with Blackwell.

It is so ordered.

GRIMES, C.J., and OVERTON, KOGAN, HARDING, WELLS and ANSTEAD,  
JJ., conur.

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  
Fifth District - Case No. 93-2405

(Volusia County)

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for Petitioner

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