

Supreme Court of Florida

No. 85,042

STATE OF FLORIDA,

Petitioner,

vs.

KEVIN WALTER PENDER, et al.,

Respondents.

[October 12, 1995]

PER CURIAM.

We have for review Pender v. State, 647 So. 2d 957 (Fla. 5th DCA 1994), which expressly and directly conflicts with the opinion in State v. Schopp, 653 So. 2d 1016 (Fla. 1995). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const. The decision below is quashed and this cause is remanded for reconsideration in light of Schopp.

It is so ordered.

GRIMES, C.J., and SHAW, KOGAN, WELLS and ANSTEAD, JJ., concur.
HARDING, J., dissents with an opinion, in which OVERTON, J.,
concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED.

HARDING, J., dissenting.

I respectfully dissent from the majority opinion in this case for the reasons expressed in my dissent in State v. Schopp, 653 So. 2d 1016, 1022 (Fla. 1995) (Harding, J., dissenting).

OVERTON, J., concurs.

Application for Review of the Decision of the District Court of
Appeal - Direct Conflict of Decisions
Fifth District - Case Nos. 93-1832 and 93-1942

(Orange County)

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