

# Supreme Court of Florida

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No. 85,221

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STATE OF FLORIDA,

Petitioner,

vs.

RICHARD SMITH, etc.,

Respondent.

[August 24, 1995]

SHAW, J.

We have for review Smith v. State, 649 So. 2d 362 (Fla. 5th DCA 1995), based on conflict with Ashley v. State, 614 So. 2d 486 (Fla. 1994). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const. We recently addressed this issue in State v. Blackwell, 20 Fla. L. Weekly S354 (Fla. July 20, 1995). 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., concur.

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. 94-1706

(Volusia County)

Robert A. Butterworth, Attorney General and Bonnie Jean Parrish,  
Assistant Attorney General, Daytona Beach, Florida,

for Petitioner

James B. Gibson, Public Defender and Nancy Ryan, Assistant Public  
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