

Supreme Court of Florida

Nos. 86,520
86,521

WILLIAM E. BURNS,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

ERIC SPREITZER,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[July 18, 1996]

PER CURIAM.

We granted review of State v. Burns, 661 So. 2d 842 (Fla. 5th DCA 1995), and State v. Spreitzer, 659 So. 2d 1110 (Fla. 5th

DCA 1995), and consolidated those cases based on apparent conflict with Allred v. State, 622 So. 2d 984 (Fla. 1993), and Traylor v. State, 596 So. 2d 957 (Fla. 1992). See Art. V, § 3(b)(4), Fla. Const.; see also Seaboard Air Line R. R. v. Branham, 104 So. 2d 356 (Fla. 1958) (holding this Court must look to opinion upon which district court's decision is based to determine probable existence of direct conflict with a decision of the Supreme Court on same point of law). Upon examination of the record and consideration of argument by counsel, we have determined that jurisdiction was granted improvidently. Accordingly, because we find no alternative basis for jurisdiction, this cause is dismissed.

It is so ordered.

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

NO MOTION FOR REHEARING WILL BE ALLOWED.

TWO CASES CONSOLIDATED:

Two Applications for Review of the Decision of the District Court
of Appeal - Direct Conflict of Decisions

Fifth District - Case Nos. 94-457 & 94-2833

(Orange & Seminole Counties)

Herbert H. Hall, Jr., Winter Garden, Florida, on behalf of
William E. Burns; and F. Wesley Blankner, Jr. and Joerg F. Jaeger
of Jaeger and Blankner, Orlando, Florida, on behalf of Eric
Spreitzer,

for Petitioners

Robert A. Butterworth, Attorney General and Kristen L. Davenport,
Assistant Attorney General, Daytona Beach, Florida; and Eilam
Isaak, Assistant State Attorney, Sanford, Florida,

for Respondent