

Supreme Court of Florida

STATE OF FLORIDA,
Petitioner,

vs

BRIAN WALTER KIPP,
Respondent.

No. 87.486

[June 26, 1997]

REVISED OPINION

PER CURIAM.

We review Kipp v. State, 668 So. 2d 214 (Fla. 2d DCA 1996), which expressly and directly conflicts with the decision in State v. Owen, 696 So. 2d 715 (Fla. 1997). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

In Owen, we held that police in Florida need not ask clarifying questions if a defendant who has received proper Miranda¹ warnings makes only an equivocal or ambiguous request to terminate an interrogation after having validly waived his or her Miranda rights. The court below held that even an equivocal request to terminate interrogation required the police to either seek clarification or cease the interrogation. Accordingly, we quash the decision in Kipp. However, because there has been no determination of whether Kipp's invocation of his right to remain silent was equivocal or unequivocal, see Kipp, 668 So. 2d at 216 n.2, we remand the case for further

proceedings.

It is so ordered.

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

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

Second District - Case No. 94-0009I

(Pasco County)

Robert A. Butterworth, Attorney General;
Robert J. Krauss, Senior Assistant Attorney
General, Chief of Criminal Law, and John M.
Klawikofsky, Assistant Attorney General,
Tampa, Florida,

for Petitioner

A. R. Mander, 111 of Greenfelder, Mander,
Hanson, Murphy & Dwyer, Dade City,
Florida,

for Respondent

¹ Miranda v. Arizona, 384 U.S. 434 (1964).