

Supreme Court of Florida

STATE OF FLORIDA,
Petitioner,

(Broward County)

vs.

ELIJAH DAVIS,
Respondent.

Robert A. Butterworth, Attorney General;
Georgina Jimenez-Orosa, Senior Assistant
Attorney General and James J. Carney,
Assistant Attorney General, West Palm Beach,
Florida,

No. 89,116

for Petitioner

[February 27, 1997]

Richard L. Jorandby, Public Defender and
Cherry Grant, Assistant Public Defender,
Fifteenth Judicial Circuit, West Palm Beach,
Florida,

SHAW, J.

for Respondent

We have for review Davis v. State, 680 So. 2d 601 (Fla. 4th DCA 1996), in which the district court ruled that the trial judge's routine comments on reasonable doubt constituted fundamental error. This decision conflicts with Wilson v. State, 22 Fla. L. Weekly 52 (Fla. Dec. 26, 1996), wherein we reached a contrary result. We have jurisdiction. Art. V, § 3(b)(3), Fla. Const. We quash the decision of the district court of appeal and remand for proceedings consistent with this opinion.

It is so ordered.

OVERTON, GRIMES, 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 - Certified Great
Public Importance

Fourth District - Case No. 95-0300