

Supreme Court of Florida

COPY

KENNETH HAROLD MOODY,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

No. **90,014**

[October 2, 1997]

PER CURIAM.

We have for review Moody v. State, 696 So. 2d 797 (Fla. 2d DCA 1997), which expressly and directly conflicts with decisions of the Third and Fourth District Courts of Appeal. We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

We quash the decision below and remand for further proceedings consistent with our opinion in State v. Hudson, 22 Fla. L. Weekly S514 (Fla. Aug. 28, 1997).

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

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

WELLS, J., dissenting.

I **must** dissent for the same reasons **stated** in my dissent in Hudson v. State, 22 Fla. L. Weekly S514 (Fla. Aug. 28, 1997).

GRIMES, J., concurs.

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

Second District - Case No. **96-03375**

(Sarasota County)

Kenneth Harold Moody, pro se, Blountstown, Florida,

for Petitioner

Robert A. Butterworth, Attorney General;
Robert J. Krauss, Senior Assistant Attorney General and Dale E. Tarpley, Assistant Attorney General, Tampa, Florida,

for Respondent