

Supreme Court of Florida

COPY

STATE OF FLORIDA,
Petitioner,

vs.

DAVID FRYE,
Respondent.

No. **90,047**

[October 2, 1997]

PER CURIAM.

We have for review Frye v. State, 690 So. 2d 629 (Fla. 3d DCA 1997), which expressly and directly conflicts with White v. State, 618 So. 2d 354 (Fla. 1st DCA 1993); Sims v. State, 605 So. 2d 997 (Fla. 2d DCA 1992); and Martin v. State, 608 So. 2d 571 (Fla. 5th DCA 1992). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const. In accordance with our decision in State v. Hudson, 22 Fla. L. Weekly S514 (Fla. Aug. 28, 1997), we approve the decision below.

KOGAN, C.J., and **OWRTON**, **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

Third District - Case No. 96-1504

(Dade County)

Robert A. Butterworth, Attorney General and **Lara J. Edelstein**, Assistant Attorney General, Fort Lauderdale, Florida,

for Petitioner

Bennett H. Brummer, Public Defender and **Kenneth P. Speiller**, Eleventh Judicial Circuit, Miami, Florida,

for Respondent