

# Supreme Court of Florida

**DYRON TUCKER,**  
Petitioner,

S. Ct. 644, 136 L. Ed. 2d 574  
(1997)?

vs.

**STATE OF FLORIDA,**  
Respondent.

No. 92,558

[October 15, 1998]

PER CURIAM.

We have for review the decision in Tucker v. State, 706 So. 2d 93 (Fla. 3d DCA 1998). We accepted jurisdiction to answer the following question certified to be of great public importance:

SHOULD THE DECISION IN PARKER V. STATE, 408 So. 2d 1037 (Fla. 1982), BE OVERRULED IN FAVOR OF THE ANALYSIS OF THE EVIDENTIARY REQUIREMENTS FOR PROOF OF CONVICTED FELON STATUS IN FIREARM VIOLATION CASES ESTABLISHED FOR FEDERAL COURTS IN OLD CHIEF V. UNITED STATES, 519 U.S. 172, 117

Id. at 94. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

We recently answered the same certified question in the affirmative in Brown v. State, No. 91,764 (Fla. Oct. 15, 1998). We also remanded the case for a new trial because we were unable to conclude that the erroneous introduction of the substance of Brown's prior felony convictions to the jury was harmless beyond a reasonable doubt. Id., slip op. at 1 n.1. In so doing, we made clear that our decision was prospective only, except for the instant case and "those cases pending where the issue has been preserved." Id. at 2 n.1. Because we find that to be the case here, we answer the certified question in the affirmative, quash the decision under review, and remand this case to the Third District for reconsideration in light of our decision in Brown.

It is so ordered.

SHAW, KOGAN, ANSTEAD and  
PARIENTE, JJ., concur.  
HARDING, C.J., concurs in part and  
dissents in part with an opinion.

OVERTON and WELLS, JJ., dissent.

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

HARDING, C.J., concurring in part  
and dissenting in part.

I concur in part and dissent in part  
for the reasons stated in my concurring  
in part and dissenting in part opinion in  
Brown v. State, No. 91,764 (Fla. Oct.  
15, 1998).

Application for Review of the Decision  
of the District Court of Appeal -  
Certified Great Public Importance

Third District - Case No. 96-3004  
(Dade County)

Bennett H. Brummer, Public Defender,  
and Maria E. Laredo, Assistant Public  
Defender, Eleventh Judicial Circuit,  
Miami, Florida,

for Petitioner

Robert A. Butterworth, Attorney  
General, and Roberta G. Mandel,  
Assistant Attorney General, Miami,  
Florida,

for Respondent