

BRUCE E. PAYTON,
Petitioner,
vs.
STATE OF FLORIDA,
Respondent.
No. 93,653

[February 25, 1999]

HARDING, C.J.

We have for review the decision in Payton v. State, 23 Fla. L. Weekly D1817 (Fla. 2d DCA July 31, 1998), which the district court certified to be in conflict with the opinions in Waite v. City of Fort Lauderdale, 681 So. 2d 901 (Fla. 4th DCA 1996), and Schultz v. State, 700 So. 2d 56 (Fla. 4th DCA 1997), approved, 720 So. 2d 247 (Fla. 1998). We have jurisdiction pursuant to article V, section 3(b)(4) of the Florida Constitution.

The district court below held that an order withholding adjudication without imposing probation is not an appealable order. In State v. Schultz, 720 So. 2d 247 (Fla. Nov. 2, 1998), this Court held that an order withholding adjudication of guilt without placing the defendant on probation is appealable under Florida Rule of Appellate Procedure 9.140(b)(1)(C). Accordingly, we quash the decision of the district court below and remand this case for proceedings consistent with our opinion in Schultz.

It is so ordered.

SHAW, WELLS, ANSTEAD, PARIENTE, LEWIS and QUINCE, 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 Direct Conflict of
Decisions

Second District -

Case No. 96-03127

(Manatee County)

James Marion Moorman, Public Defender, and A. Victoria Wiggins, Assistant Public Defender, Tenth
Judicial Circuit, Bartow, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, Robert J. Krauss, Tampa Bureau Chief, Criminal Appeals, and Johnny T. Salgado, Assistant Attorney General, Tampa, Florida,

for Respondent