

IN THE SUPREME COURT OF THE STATE OF FLORIDA

STANLEY SHADLER,

Appellant,

v.

Case # 93,784

STATE OF FLORIDA,

Appellee.

FILED

SID J. WHITE

SEP 17 1998

CLERK, SUPREME COURT
By BOB
Chief Deputy Clerk

ON APPEAL FROM THE DISTRICT COURT
OF APPEAL FOR THE FIFTH DISTRICT
OF THE STATE OF FLORIDA

BRIEF ON JURISDICTION

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STATEMENT OF THE CASE

The Appellant was charged with possession of cocaine. (R-2, 20) He filed a motion to suppress evidence on the grounds that his arrest for driving on a suspended license was unlawful because the computerized driving record on which the arresting officer relied incorrectly listed his driver's license as suspended. (R-1). Following a hearing on the motion, the trial court suppressed the evidence as the fruit of an unlawful search. The State appealed to the Fifth District Court of Appeal which reversed. (Appendix 1.)

FACTS

On June 18th, 1997 Deputy Steve Rose of the Putnam County Sheriff's Department told Deputy Gary Bowling that he had seen the Defendant driving, and that he believed the Defendant's driver's license was suspended. (R-17, 18) Deputy Bowling then contacted his dispatcher and asked the dispatcher to check the Defendant's driving record. (R-17) Upon receiving conformation from his dispatcher that the Defendant's driver's license was suspended, Deputy Bowling began watching for the Defendant to see if the Defendant was driving. (R-18)

Later in the evening, Deputy Bowling saw the Defendant driving his car. (R-18) At this time Deputy Bowling stopped the Defendant and again checked the Defendant's driving record through his dispatcher. (R-18-19) Deputy Bowling then arrested the Defendant for driving on a suspended license, and on searching the Defendant incident to the arrest found powder cocaine in the Defendant's wallet. (R-20)

At the hearing on the motion to suppress, the Defendant presented evidence that his license had been listed as suspended for failure to attend an alcohol treatment course, and that the suspension was an error because he had completed the course. (R-25-26) The trial court suppressed the cocaine based on the authority of State v. White, 660 So. 2d 664 (Fla. 1995), finding that suppression was required because the information that the Defendant's license was suspended was supplied by DHSMV, and the Florida Highway Patrol, an agency with law enforcement powers, is

a division of DHSMV. (R-3)

BASIS AND ARGUMENT ON JURISDICTION

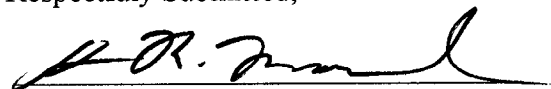
The Appellant, Stanley Shadler, appeals to the Supreme Court pursuant to Rule 9.030(2)(A)(iv) which provides for this Court's discretionary review of a decision of a district court of appeal that conflicts with the decision of another district court of appeal or of the Supreme Court on the same issue of law.

In this instance the First and Fifth District Courts of Appeal, confronted with identical facts, have entered conflicting rulings regarding the interpretation of this Court's ruling in the case of State v. White, 660 So. 2d 664 (Fla. 1995) (Appendix 3).

Both the Appellant and Michael Bruno were stopped and arrested based on information that was furnished the arresting officer that their licenses were suspended or revoked. Based on the information the officers arrested the defendants and in searches pursuant to arrest discovered drugs. The First District Court of Appeal in the case of Bruno v. State, 704 So.2d 134 (Fla. 1st DCA 1997) (Appendix 2) held in favor of the Defendant and suppressed the evidence. In the instant case the Fifth DCA held in favor of the State.

As the decisions are in conflict and as the Fifth DCA has narrowed considerably the protections this court sought to extend to the citizens of Florida in the case of State v. White this Court should exercise its discretionary jurisdiction and hear this cause.

Respectfully Submitted,



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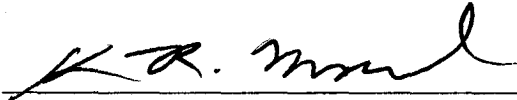
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CERTIFICATE OF SERVICE

I CERTIFY that a copy of the foregoing has been furnished to Robert A. Butterworth, Attorney General by US Mail at 444 Seabreeze Blvd., Daytona Beach, FL 32118 this 16th day of September 1998.



Kevin R. Monahan