

Supreme Court of Florida

No. SC96836

STATE OF FLORIDA,
Petitioner,

vs.

THOMAS H. SPIOCH,
Respondent.

[December 13, 2001]

PER CURIAM

We have for review the Fifth District Court of Appeal's decision in Spioch v. State, 742 So. 2d 817 (Fla. 5th DCA 1999), which expressly and directly conflicts with the Third District Court of Appeal's opinion in Vural v. State, 717 So. 2d 65 (Fla. 3d DCA 1998). We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.

Based on our recent decision in Seagrave v. State, 26 Fla. L. Weekly S481 (Fla. July 12, 2001), we quash the Fifth District's decision in Spioch and remand for proceedings consistent with that opinion.

It is so ordered.

WELLS, C.J., and SHAW, HARDING, 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 -
Direct Conflict

Fifth District - Case No. 5D97-2616

(Brevard County)

Robert A. Butterworth, Attorney General, and Kellie A. Nielan, Kristen L. Davenport,
and David H. Foxman, Assistant Attorneys General, Daytona Beach, Florida,

for Petitioner

James B. Gibson, Public Defender, and Susan A. Fagan, Assistant Public Defender,
Seventh Judicial Circuit, Daytona Beach, Florida,

for Respondent