

Supreme Court of Florida

No. SC97119

BRYAN PERRY,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[June 22, 2000]

PER CURIAM.

We have for review the decision in Perry v. State, 744 So. 2d 1199 (Fla. 5th DCA 1999), in which the Fifth District Court of Appeal cited as controlling authority its opinion in Maddox v. State, 708 So. 2d 617 (Fla. 5th DCA 1998), approved in part, disapproved in part, 25 Fla. L. Weekly S367 (Fla. May 11, 2000). We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.; Jollie v. State, 405 So. 2d 418, 420 (Fla. 1981). We quash the decision below and remand for the Fifth District to consider this case in light of our opinion in Maddox.

It is so ordered.

HARDING, C.J., and 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 -
Direct Conflict

Fifth District - Case No. 5D99-320

(Orange County)

James B. Gibson, Public Defender and Noel A. Pelella, Assistant Public Defender,
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for Petitioner

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