

# Supreme Court of Florida

---

No. SC00-351

---

**THOMAS KIRKENDALL,**  
Petitioner,

vs.

**STATE OF FLORIDA,**  
Respondent.

[May 17, 2001]

LEWIS, J.

We have for review Kirkendall v. State, 749 So. 2d 571 (Fla. 2d DCA 2000).

We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.

We vacate the decision of the district court and remand for reconsideration upon application of our decisions in Grant v. State, 770 So. 2d 655 (Fla. 2000); State v. Cotton, 769 So. 2d 345 (Fla. 2000); McKnight v. State, 769 So. 2d 1039 (Fla. 2000); and Ellis v. State, 762 So. 2d 912 (Fla. 2000).

It is so ordered.

WELLS, C.J., and SHAW, HARDING, ANSTEAD, and PARIENTE, JJ., concur.  
QUINCE, J., dissents.

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 -  
Statutory Validity

Second District - Case No. 2D99-227

(Pinellas County)

James Marion Moorman, Public Defender, and Megan Olson, Assistant Public  
Defender, Tenth Judicial Circuit, Bartow, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, Robert J. Krauss, Senior Assistant  
Attorney General, Chief of Criminal Law, and Ronald Napolitano, Assistant  
Attorney General, Tampa, Florida,

for Respondent