

Supreme Court of Florida

No. SC00-936

DARRELL WAYNE BUTLER,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[May 9, 2002]

HARDING, J.

We have for review Butler v. State, 753 So. 2d 785, 786 (Fla. 3d DCA 2000), in which the Third District Court of Appeal certified conflict with the First District Court of Appeal's decision in Ward v. State, 730 So. 2d 728 (Fla. 1st DCA 1999), regarding whether double jeopardy bars convictions and punishments for robbery and carjacking. We have jurisdiction. See art. V, § 3(b)(4), Fla. Const. In Cruller v. State, 808 So. 2d 201 (Fla. 2002), this Court determined that double jeopardy does not bar convictions and punishments for robbery and carjacking.

Accordingly, we approve the result of the Third District's decision in Butler.

It is so ordered.

WELLS, C.J., and SHAW, ANSTEAD, LEWIS, and QUINCE, JJ., concur.
PARIENTE, J, dissents with an opinion.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND
IF FILED, DETERMINED.

PARIENTE, J., dissenting.

For the reasons expressed in my dissenting opinion in Cruller v. State, 808 So. 2d 201, 204-10 (Fla. 2001), I would hold that double jeopardy bars convictions and punishments for both robbery and carjacking. Furthermore, there is no dispute that the robbery and carjacking offenses in this case arose out of a single criminal episode. Butler took the victim's purse and other items from the victim's person after striking the victim in the face. Immediately thereafter, Butler took the victim's car. Therefore, there was no separation of time, place, or circumstance between the robbery and the carjacking. Cf. Hayes v. State, 803 So. 2d 695 (Fla. 2001). Accordingly, I dissent.

Application for Review of the Decision of the District Court of Appeal - Certified
Direct Conflict of Decisions

Third District - Case No. 3D99-1605

(Miami-Dade County)

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