

# Supreme Court of Florida

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No. SC03-1217

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**STATE OF FLORIDA,**  
Petitioner,

vs.

**K.C.,**  
Respondent.

[April 29, 2004]

PER CURIAM.

We originally accepted jurisdiction pursuant to article V, section 3(b)(4), of the Florida Constitution because the Second District Court of Appeal in K.C. v. State, 848 So. 2d 1193 (Fla. 2d DCA 2003), certified potential conflict with the Fifth District Court of Appeal's decision in S.W. v. State, 664 So. 2d 39 (Fla. 5th DCA 1995). However, we now conclude that these two cases are distinguishable because the statute at issue was amended after the Fifth District's decision in S.W. Compare § 39.0145, Fla. Stat. (Supp. 1994) with § 985.216, Fla. Stat. (2001).

Therefore, we have determined not to exercise our discretionary jurisdiction in this case.

Accordingly, this case is hereby dismissed.

It is so ordered.

ANSTEAD, C.J., and WELLS, PARIENTE, LEWIS, QUINCE, CANTERO, and BELL, JJ., concur.

NO MOTION FOR REHEARING WILL BE ALLOWED.

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

Second District - Case No. 2D02-4398

(Sarasota County)

Charles J. Crist, Jr., Attorney General, Robert J. Krauss, Chief-Assistant Attorney General, Bureau Chief, Tampa Criminal Appeals, and Donna S. Koch, Assistant Attorney General, Tampa, Florida,

for Petitioner

Elliott C. Metcalfe, Jr., Public Defender, and Christopher E. Cosden, Assistant Public Defender, Twelfth Judicial Circuit, Sarasota, Florida,

for Respondent