

# Supreme Court of Florida

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No. SC03-551

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**STATE OF FLORIDA,**  
Petitioner,

vs.

**TERRY COTE,**  
Respondent.

[September 29, 2005]

PER CURIAM

We have for review Cote v. State, 841 So. 2d 488 (Fla. 2d DCA 2003), which cites to a case that was pending review in this Court (Harvey v. State, 786 So. 2d 595 (Fla. 1st DCA), reh'g denied, 786 So. 2d 28 (Fla. 1st DCA), review granted, 797 So. 2d 585 (Fla. 2001)). We have jurisdiction. See art. V, § (3)(b)(3), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

We directed respondent to show cause why this Court should not quash Cote and remand for reconsideration in light of Brannon v. State, 850 So. 2d 452 (Fla. 2003), which issued simultaneously with and distinguished Harvey v. State, 848 So. 2d 1060 (Fla. 2003). Having received no response and having reviewed the

case, the Court has determined that it should accept jurisdiction in this case. The petition for review is granted, the Second District Court of Appeal's decision in Cote is quashed, and this matter is remanded for reconsideration in light of this Court's decision in Brannon. No motion for rehearing will be entertained by the Court.

It is so ordered.

PARIENTE, C.J., and WELLS, ANSTEAD, 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 - Direct Conflict of Decisions

Second District - Case No. 2D01-4591

(Polk County)

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for Petitioner

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