

# Supreme Court of Florida

\_\_\_\_\_  
No. 73,289  
\_\_\_\_\_

ADRIAN AVERY, Petitioner,  
vs.  
STATE OF FLORIDA, Respondent.

[November 30, 1989]

BARCKETT, J.

We have for review State v. Avery, 531 So.2d 182, 188 (Fla. 4th DCA 1988), in which the district court certified the following question to be of great public importance:

May evidence, obtained as a result of defendant's consent to search, be suppressed by the trial court as "coerced" upon the sole ground that the officer(s) boarded a bus (or other public transport) and randomly sought consent from passengers?

We have discretionary jurisdiction. Art. V, § 3(b)(4), Fla. Const. For the reasons expressed in Bostick v. State, No. 70,996 (Fla. Nov. 30, 1989), we answer the certified question, as rephrased therein, in the affirmative, quash the opinion of the district court, and remand to the district court for proceedings consistent with Bostick.

It is so ordered.

EHRlich, C.J., and SHAW and KOGAN, JJ., Concur  
GRIMES, J., Dissents with an opinion, in which OVERTON and  
McDONALD, JJ., Concur

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

GRIMES, J., dissenting.

I dissent for the reasons expressed in my dissenting opinion in Bostick v. State, No. 70,996 (Fla. Nov. 30, 1989).

OVERTON and McDONALD, JJ., Concur

Application for Review of the Decision of the District Court of  
Appeal - Certified Great Public Importance

Fourth District - Case No. 87-0270  
(Palm Beach County)

Richard L. Jorandby, Public Defender, and Jeffrey L. Anderson,  
Assistant Public Defender, Fifteenth Judicial Circuit,  
West Palm Beach, Florida,

for Petitioner

Richard A. Butterworth, Attorney General; and Richard G. Bartmon  
and Amy Lynn Diem, Assistant Attorneys General, West Palm Beach,  
Florida,

for Respondent