

Supreme Court of Florida

No. 77,713

STATE OF FLORIDA, Petitioner,

vs.

THURSTON McCLAIN, Respondent.

ORIGINAL

[January 2, 1992]

PER CURIAM.

The State seeks review of McClain v. State, 576 So.2d 372 (Fla. 2d DCA 1991), in which the district court certified the same question of great public importance that was certified in Anderson v. State, 576 So.2d 319 (Fla. 2d DCA 1991).^{*} We recently answered the question in the affirmative in State v. Anderson, No. 77,398 (Fla. Jan. 2, 1992).

We therefore approve the opinion of the district court.

It is so ordered.

SHAW, C.J. and OVERTON, BARKETT, GRIMES, KOGAN and HARDING, JJ., concur.

McDONALD, J., dissents.

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

^{*} We have jurisdiction pursuant to article V, section 3(b)(4) of the Florida Constitution.

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

Second District - Case No. 88-03465

(Polk County)

Robert A. Butterworth, Attorney General and Joseph R. Bryant,
Assistant Attorney General, Tampa, Florida,

for Petitioner

Suzanne Consagra of Suzanne Consagra, P.A., Lakeland, Florida,

for Respondent