

# Supreme Court of Florida

**ORIGINAL**

---

No. 78,689

---

TODD RUSSELL BAUMGARDNER,  
Petitioner,

vs.

STATE OF FLORIDA,  
Respondent.

[September 3, 1992]

PER CURIAM.

Upon the authority of Scates v. State, 17 F.L.W. S467 (Fla. July 23, 1992), we quash State v. Baumgardner, 587 So. 2d 1147 (Fla. 4th DCA 1991), and remand with directions to reinstate Baumgardner's probation.

**It is so ordered.**

**BARKETT, C.J. and OVERTON, SHAW and KOGAN, JJ., concur.**

GRIMES, J., dissents with an opinion, in which HARDING, J,  
concur.  
McDONALD, J., dissents.

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 Scates v. State, 17 F.L.W. S467 (Fla. July 23, 1992).

HARDING, J., concurs.

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

Fourth District - Case No. 90-3337

(Broward County)

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

for Petitioner

Robert A. Butterworth, Attorney General, and Jacqueline Barakat  
and Michelle A. Smith, Assistant Attorneys General, West Palm  
Beach, Florida,

for Respondent