

Supreme Court of Florida

ORIGINAL

No. 79,902

JOSEPH INNES, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[June 24, 1993]

PER CURIAM.

We have for review Innes v. State, 597 So. 2d 966 (Fla. 2d DCA 1992), in which the district court asserted conflict with Lang v. State, 566 So. 2d 1354 (Fla. 5th DCA 1990). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

We addressed the issue in this case in Sirmons v. State, No. 79,754 (Fla. June 24, 1993). Accordingly, we quash the decision below and remand for proceedings consistent with Sirmons.

It is so ordered.

OVERTON, McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.
BARKETT, C.J., concurs specially with an opinion.

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

BARKETT, C.J., specially concurring.

I concur, but with the same reservations I expressed in Sirmons v. State, No. 79,754 (Fla. June 24, 1993).

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

Second District - Case No. 91-02666

(Pinellas County)

James Marion Moorman, Public Defender and Allyn Giambalvo,
Assistant Public Defender, Tenth Judicial Circuit, Clearwater,
Florida,

for Petitioner

Robert A. Butterworth, Attorney General; and Peggy A. Quince and
Stephen A. Baker, Assistant Attorneys General, Tampa, Florida,

for Respondent