

# Supreme Court of Florida

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No. 94,756

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**WILLIAM BURKE HARRIS,**  
Petitioner,

vs.

**STATE OF FLORIDA,**  
Respondent.

[December 16, 1999]

PARIENTE, J.

We have for review the opinion in Harris v. State, 726 So. 2d 330 (Fla. 5th DCA 1999), which certified conflict with the opinions in State v. Holland, 689 So. 2d 1268 (Fla. 1st DCA 1997), State v. Perry, 716 So. 2d 327 (Fla. 2d DCA 1998), State v. Wells, 23 Fla. L. Weekly D2000 (Fla. 2d DCA Aug. 26, 1998), and State v. Alleman, 23 Fla. L. Weekly D2000 (Fla. 2d DCA Aug. 26, 1998). We have jurisdiction. See art. V, § 3(b)(4), Fla. Const. For the reasons expressed in our opinion in Hayes v. State, 24 Fla. L. Weekly S467 (Fla. Oct. 7, 1999), the decision

of the Fifth District is hereby quashed. We remand to the district court for proceedings consistent with this opinion.

It is so ordered.

HARDING, C.J., and SHAW, WELLS, ANSTEAD, LEWIS and QUINCE, JJ.,  
concur.

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

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

Fifth District - Case No. 97-2795

(Volusia County)

James B. Gibson, Public Defender, and Dee Ball, Assistant Public Defender, Seventh  
Judicial Circuit, Daytona Beach, Florida,

for Petitioner

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for Respondent