FLORIDA TRAFFIC-RELATED APPELLATE OPINIONS

January - March 2012

[Editor's Note: In order to reduce possible confusion, the defendant in a criminal case will be referenced as such even though his/her technical designation may be appellant, appellee, petitioner, or respondent. In civil cases, parties will be referred to as they were in the trial court, that is, plaintiff or defendant. In administrative suspension cases, the driver will be referenced as the defendant throughout the summary, even though such proceedings are not criminal in nature. Also, a court will occasionally issue a change to a previous opinion on motion for rehearing or clarification. In such cases, the original summary of the opinion will appear followed by a note. The date of the latter opinion will control its placement order in these summaries.]

I. Driving Under the Influence (DUI)

Wheeler v. State, 87 So. 3d 5 (Fla. 5th DCA 2012).

The district court withdrew its opinion of October 21, 2011, and replaced it with this opinion denying defendant's motion for rehearing on his DUI manslaughter conviction. The defendant contends that the trial court utilized the wrong standard of review for the suppression hearing when the court viewed the evidence in the light most favorable to the prosecution. The district court agrees but noted that the defendant failed to raise an objection during the suppression hearing and did not raise a claim of fundamental error in its initial brief to the district court. The district court noted that Lewis v. State, 979 So. 2d 1197, 2000 (Fla. 4th DCA 2008), sets forth the correct standard for review in a suppression hearing [and recedes from the language in State v. Johnson, 695 So. 2d 771 (Fla. 5th DCA 1997)].
http://www.5dca.org/Opinions/Opin2012/011612/5D10-2608.op.pdf

Corrao v. State, 79 So. 3d 940 (Fla. 1st DCA 2012).

The district court reversed the defendant's convictions for two counts of driving under the influence involving damage to person or property and one count of leaving the scene of an accident involving personal injury and remanded the case for a new trial. In the presence of the jury, the prosecutor asked the defendant if he had offered to plead guilty in exchange for reduced charges, which the defendant denied. Thereafter, the trial court denied the defendant's motion for mistrial. The district court reviewed the trial court's denial of the motion for mistrial under an abuse-of-discretion standard of review, relying on the analysis set forth in Russell v. State, 614 So. 2d 605, 609 (Fla. 1st DCA

1993). The district court found that the prosecutor's comments were not supported by evidence (therefore insinuating facts not in evidence), finding that the denial of the motion for mistrial was not harmless error "beyond a reasonable doubt, or that denial of the motions for mistrial was not an abuse of discretion."
http://opinions.1dca.org/written/opinions2012/02-23-2012/10-4781.pdf

Duke v. State, 82 So. 3d 1155 (Fla. 2d DCA 2012).

The district court granted the defendant's petition for writ of certiorari to quash an order of the circuit court, sitting in its appellate capacity of the county court, determining that the circuit court departed from the essential elements of law "by applying an incorrect standard of review, reweighing the evidence, and making its own credibility determination."

The defendant was charged with DUI and brought a motion to suppress alleging the stop was not supported by reasonable suspicion. Following the hearing, the county court granted the motion to suppress. On appeal, the circuit court reversed the county court order determining that the county court order was based on an issue of law, i.e., what constitutes reasonable suspicion, and after reviewing the evidence, determining the officer's testimony was more credible than the county court determined.

The district court found the circuit court failed to apply the correct law in two different ways: by failing to see that the county court decision was not limited to a matter of law, i.e., what gives rise to reasonable suspicion, but also included a weighing of the evidence and determination of credibility; and, by giving more credence to the police officer's testimony contrary to the county court finding. Thus, the circuit court departed from the essential elements of law, and the district court remanded the case with directions to reinstate the county court's order of suppression.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/March/March%2009,%202012/2D11-964.pdf

II. Criminal Traffic Offenses

K.W. v. State, 78 So. 3d 74 (Fla. 2d DCA 2012).

The district court reversed the trial court's denial of the defendant's motion to dismiss in a case involving leaving the scene of the accident with injury. The case involved a three-car impact resulting in an overturned car with injuries to the occupant. Viewing the evidence in the light most favorable to the state, the judgment of dismissal should have been granted because the facts in the case did not clearly establish how the three cars impacted or that the defendant knew or should have known of the rollover and injuries. Therefore, the evidence was insufficient to establish a prima facie case against the defendant.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/January/January%2020,%202012/2D11-685.pdf

Crain v. State, 79 So. 3d 118 (Fla. 1st DCA 2012).

The district court reversed and remanded the case to the trial court with direction to vacate the defendant's conviction as a habitual traffic offender for driving while license was revoked (DWLS), a third degree felony, and adjudicating the defendant guilty of the lesser included offense of driving without a valid driver's license, a second degree misdemeanor. The defendant argued that he could not have been convicted as a habitual traffic offender for DWLS under section 316.34(5), Florida Statutes, when he never had a Florida driver's license. The district court agreed, noting that in presenting the case to the jury the trial court changed the statutory language to include "or driving privilege," which constituted fundamental error. Although the district court noted that other provisions included in the statutory scheme of chapter 322 included "or driving privilege," this particular section did not, and statutory language must be strictly construed.
http://opinions.1dca.org/written/opinions2012/01-24-2012/10-2145.pdf

Burford v. State, 77 So. 3d 917 (Fla. 4th DCA 2012).

The district court granted a petition for writ of habeas corpus alleging ineffective assistance of counsel and remanded the case for a new trial. The defendant was convicted at his original trial of manslaughter by culpable negligence, vehicular homicide, and fleeing a law enforcement officer. In Burford v. State, 8 So. 3d 478 (Fla. 4th DCA 2009), the district court remanded the case to the trial court to vacate the conviction for vehicular homicide because it was a lesser included offense of manslaughter by culpable negligence and constituted double-jeopardy. In his new appeal, the defendant successfully argued ineffective assistance of appellate counsel based on fundamental error of the trial court to instruct the jury on justifiable and excusable homicide in connection with the manslaughter instruction. The court relied on its prior ruling in Jenkins v. State, 990 So. 2d 702, 703 (Fla. 4th DCA 2008).
http://www.4dca.org/opinions/Jan%202012/01-25-12/4D10-2205.op.pdf

Mullins v. State, 78 So. 3d 704 (Fla. 4th DCA 2012).

The district court reversed the defendant's jury conviction for manslaughter and culpable negligence and remanded the case for a new trial. The defendant appealed several issues but was only successful on one. The jury requested that testimony of two witnesses be played back. The trial court played back only the direct examination portion of the witness's testimony but did not include the cross examination of the witnesses, as requested by the defense. The district court found that this was reversible error, highlighting favorable testimony to the state and diminishing testimony favorable to the defense.
http://www.4dca.org/opinions/Feb%202012/02-01-12/4D10-2073.op.pdf

Dabel v. State, 79 So. 3d 873 (Fla. 4th DCA 2012).

The district court remanded the case to the trial court to strike the imposition of public defender fees against the defendant. The defendant was convicted as a habitual traffic offender for driving while license was suspended or revoked. Following his conviction, the trial court imposed various fees against the defendant. The district court addressed only the assessment of the fees, finding that the defendant did not have notice of the trial court's intention to assess public defender fees, which deprived the defendant of his right to contest the fees. The district court found that no notice was required for assessment of the application fee for the public defender because such a fee is mandated by law.
http://www.4dca.org/opinions/Feb%202012/02-08-12/4D09-988.op.pdf

Clavelle v. State, 80 So. 3d 456 (Fla. 1st DCA 2012).

The district court affirmed the conviction but reversed the imposition of costs against the defendant following her conviction for fleeing or attempting to elude a law enforcement officer, remanding the case for a hearing on the assessment of a fee for the public defender, and directing the trial court to cite the proper, specific authority for imposition of the costs, and impose the correct costs and assessments based upon the statutes in effect on the date of the offense. This is a good case for discussion of imposition of costs.
http://opinions.1dca.org/written/opinions2012/02-27-2012/10-2787.pdf

Reppert v. State, 86 So. 3d 525 (Fla. 2d DCA 2012).

The district court affirmed the defendant's conviction for fleeing and eluding a law enforcement officer at high speed, discussing in detail why the trial court's refusal to strike the venire was not an abuse of discretion. During jury selection, a potential juror stated that "most likely these individuals who go through the system have been doing some kind of criminal activity for a long time." Further questioning showed that the prospective juror had no knowledge of the defendant or the defendant's criminal history, and the judge gave a detailed explanation to the venire about their role and the presumption of innocence. The district court noted that the prospective juror's comments were of a personal belief, "apparently made in an effort to be excused from jury duty," and did not taint the entire venire. But even if there had been a slight taint of the venire, the district court found the trial court's explanation dissipated it.
http://www.2dca.org/opinions/Opinion_Pages/Opinion_Page_2012/March/March%2016,%202012/2D11-537.pdf

Anderson v. State, 87 So. 3d 774 (Fla. 2012).

The supreme court conducted a de novo review in this matter on a question of law concerning knowledge of cancellation, suspension, or revocation of a driver's license or driving privilege. The court affirmed the defendant's conviction for driving while license suspended and conviction for revocation of probation, affirmed the Fifth District's

decision, and disapproved the decisions in Brown v. State, 764 So. 2d 741 (Fla. 4th DCA 2000), and Haygood v. State, 17 So. 3d 894 (Fla. 1st DCA 2009), to the extent they conflict with the opinion rendered in this case. This decision involves statutory interpretation and construction and provides a detailed analysis of the notice and knowledge requirements under sections 322.34 and 322.251(1), Florida Statutes.

The opinion holds that when there is a suspension for any reason other than for failure to pay a traffic fine or some other financial responsibility, there is a rebuttable presumption of knowledge under section 322.34, Florida Statutes, which the state may prove by establishing that a judgment or order of suspension was entered on an individual's driving record. In cases involving failure to pay a traffic fine or some other financial responsibility, the rebuttable presumption of knowledge is not applicable. However, in these cases the state must only show that the individual received notice, which may be established by showing that the DHSMV mailed the notice of the suspension to the address where the individual lived at the time of the mailing in accordance with section 322.251(1), Florida Statutes.
http://www.floridasupremecourt.org/decisions/2012/sc11-3.pdf

III. Arrest, Search and Seizure

Perez v. State, 79 So. 3d 140 (Fla. 3d DCA 2012).

The district court reversed the defendant's conviction for possession of cocaine based on the erroneous admission of prejudicial testimony and prosecutorial comments.

The defendant was stopped for a broken tail light. He consented to a search of his truck, and a narcotics dog located a box under the defendant's seat containing a trafficking amount of cocaine. The defendant argued that he did not know what was in the box and moved in limine to exclude any reference to an ongoing investigation because none of the witnesses involved in the investigation were made available for trial, and that if the testimony were allowed it would be more prejudicial than probative. The trial court allowed the arresting officer to testify that the officer was present in the area due to an ongoing narcotics investigation. The prosecutor expanded on the judge's ruling by arguing in his closing that the officer was following the defendant based on a narcotics investigation. The trial court overruled the defense objection and allowed the prosecutor to continue his closing.

The district court found that the evidence regarding the ongoing narcotics investigation was inadmissible, that it prejudiced the jury, and that it was irrelevant and unnecessary.
http://www.3dca.flcourts.org/Opinions/3D10-0353.pdf

Bowens v. State, 80 So. 3d 1056 (Fla. 4th DCA 2012).

The district court, following the defendant's appeal of a strong-armed robbery conviction, affirmed the trial court's refusal to exclude a surreptitiously recorded

conversation containing admissions by the defendant in the back of a patrol car, and affirmed the trial court's denial of a motion for mistrial.

After being apprehended for strong-arm robbery, the defendant and the driver of the vehicle in which he was a passenger, were placed into the back of a patrol car. A hidden microphone recorded their conversation in which the defendant made admissions concerning the robbery. The district court found that the recorded statements of the defendant were admissible as a party admission under section 90.803(18)(a), Florida Statutes, and that the statements of the driver were admissible to place the defendant's statements into context (making the statements non-testimonial). The district court further found that the statements were not instigated or facilitated by anyone for the primary purpose of collecting evidence for prosecution, but were a recording of a spontaneous conversation. The district court opinion contains a detailed discussion of Crawford v. Washington, 514 U.S. 36 (2004), as well as other cases that have ruled on surreptitious tape recordings.
http://www.4dca.org/opinions/Feb%202012/02-01-12/4D08-3772.op.pdf

Hernandez v. State, 81 So. 3d 522 (Fla. 3d DCA 2012)

The district court affirmed the trial court's denial of the defendant's 3.850 motion for post conviction relief following the defendant's 1983 conviction for sale or delivery of cocaine. The defendant is serving an enhanced sentence as a habitual offender based on the 1983 drug conviction and prior trafficking cases.

In 1983, law enforcement officers observed a drug transaction between the defendant, who was a front-seat passenger in his own Peugeot, and a co-defendant who walked up to the car and engaged in a hand-to-hand transaction with the defendant through the passenger window. The co-defendant was helping a juvenile buy cocaine. The defendant, co-defendant, and juvenile were all arrested. The co-defendant provided two statements that he purchased the cocaine from the defendant. One of the law enforcement officers testified he knew the defendant, knew his car, and clearly saw the events that transpired.

The trial court held an evidentiary hearing on the 3.850 motion and denied it. The district court listed eight reasons why the district court agreed with the trial court, including a discussion on recantation.
http://www.3dca.flcourts.org/Opinions/3D10-1383.pdf

State v. Taylor, 79 So. 3d 876 (Fla. 4th DCA 2012).

The district court, under a de novo review, reversed the trial court's ruling on the defendant's motion to suppress (the stop) and remanded the case for a new trial. Following a traffic stop, a driver's license check revealed that the defendant was driving on a suspended license. The defendant was handcuffed and placed into the back of the officer's patrol car while the officer searched a compartment in the defendant's car. The

search yielded MDMA, and the defendant was charged with DWLS and possession of MDMA.

The trial court granted the defendant's motion to dismiss relying on the decision in Arizona v. Gant, 556 U.S. 310 (2009), which case stated that police could search "the passenger compartment of a vehicle incident to a recent occupant's arrest only if it is reasonable to believe that the arrestee might access the vehicle at the time of the search or that the vehicle contains evidence of the offense of arrest." Id. at 332. Because the defendant in the Taylor case was handcuffed in the back of the patrol car, officer safety was not at issue, and the facts of the case did not otherwise support a search of the defendant's vehicle.

The state appealed arguing a '"good faith" exception to the officer's conduct because Gant had not been decided at the time of the arrest. By the time of the appeal, a new case Davis v. U.S., 131 S.Ct. 2419 (2011), was decided and became controlling. The district court found that "under Davis, courts are required to apply the "good faith" exception to the exclusionary rule in pre-Gant searches," and the motion to suppress should have been denied.
http://www.4dca.org/opinions/Feb%202012/02-08-12/4D10-4930.op.pdf

State v. Bowers, 87 So. 3d 704 (Fla. 2012).

The supreme court resolved a conflict with decisions of the Second and Fourth Districts concerning application of the fellow officer rule to testimony in a suppression hearing where the defendant challenged the validity of a traffic stop. The court held that 'the fellow officer rule does not allow an officer who does not have firsthand knowledge of the traffic stop and was not involved in the investigation at the time to testify as to hearsay regarding what the initial officer who conducted the stop told him or her for the purpose of proving a violation of the traffic law so as to establish the validity of the initial stop." In Bowers, a motion to suppress was granted by the trial court, and in Ferrer v. State, 785 So. 2d 709 (Fla. 4th DCA 2001), a motion to suppress on similar facts was denied by the trial court, both cases applying the fellow officer rule.

In Bowers, the defendant was stopped by an officer for suspected DUI. A second officer, not present at the initial stop and who had no direct knowledge of the defendant's driving pattern, arrived at the scene, performed the DUI investigation and arrested the defendant for DUI and drug/drug related charges. At a suppression hearing of the stop, only the officer who conducted the DUI investigation and made the arrest appeared and testified. In reviewing the fellow officer rule, the supreme court stated that the fellow officer rule allows an officer to rely on the representations of another officer to justify the officer's conduct, but it does not permit "an officer to testify as to knowledge that another officer possessed in order to justify the other officer's conduct." The court agreed with the trial court in Bowers that the suppression hearing was not about the probable cause to conduct the DUI investigation and make an arrest, but concerned the probable cause to make the stop in the first place. Therefore, only the officer who made the stop could establish the basis for the probable cause of the stop.

The court affirmed the Second District opinion in Bowers, and disapproved the decision of the Fourth District in Ferrer. Note: the dissent discusses Bowers not in terms of the fellow officer rule, but in terms of second-tier certiorari review given the majority opinion in Nader v. Florida Department of Highway Safety and Motor Vehicles, 87 So. 3d 712 (Fla. 2012). The Nader opinion is summarized under the heading "V. Driver's Licenses," herein.
http://www.floridasupremecourt.org/decisions/2012/sc09-1971.pdf

Carreras v. State, 81 So. 3d 590 (Fla. 5th DCA 2012).

The district court affirmed the defendant's conviction for tampering with physical evidence, possession of twenty grams or less of cannabis, and possession of drug paraphernalia.

In the underlying case, the exterior mirror of the defendant's pick-up hit the exterior mirror of a patrol car as the defendant was taking a turn too closely. A traffic stop was made of the defendant's pick-up after the officer, now following the truck, also observed the pick-up straddling two traffic lanes and then drive erratically after the patrol car emergency lights were activated. Two officers saw objects thrown from the vehicle, one from the driver's side and one from the passenger's side. The objects were recovered and field-tested positive for cannabis. The defendant claimed at trial that he had no knowledge of the illicit nature of the cannabis. The jury was instructed on the affirmative defenses of defendant's lack of knowledge claim for each charge, and the jury returned a verdict of guilty on each charge.

The defendant claimed the statute under which he was convicted, i.e., section 893.101, Florida Statutes (2009), was found to be facially unconstitutional in Shelton v. Secretary, Dep't of Corrections, 802 F. Supp. 2d 1289 (M.D. Fla. 2011). The district court disagreed that the statute was facially unconstitutional and previously rejected the reasoning in the Shelton case. The district court noted that this matter was currently under review by the Florida Supreme Court through State v. Adkins, 71 So. 3d 117 (Fla. 2011). Oral argument was heard by the Florida Supreme Court on December 6, 2011, and a decision is pending. [The Florida Supreme Court issued its opinion on *Adkins v. State*, 96 So. 3d 412,on July 12, 2012, reversing *State v. Adkins*. *Carreras v. State* has not been appealed.]
http://www.5dca.org/Opinions/Opin2012/022812/5D11-1777.op.pdf

Reed v. State, ___ So. 3d ___ (Fla. 5th DCA 2012), 2012 WL 1057635, March 30, 2012, 5D11-742.

The district court reversed the defendant's conviction for possession of a firearm by a convicted felon and carrying a concealed firearm. A police officer observed an alleged drug transaction and called a second officer to make the stop of the suspect, which suspect was riding a "pink-colored style" bicycle. The defendant was stopped on his bicycle by the second police officer relying on the fellow officer rule. After the stop,

the defendant, a convicted felon, volunteered that he had a firearm in his pocket. The officer retrieved the firearm. Although it was ultimately shown that the defendant was not the suspect involved in the alleged drug transaction, the defendant was arrested on the above crimes for which he was convicted.

At the first trial during a break after jury selection, a juror heard the defendant make a statement which the juror construed to mean that the defendant was going to lie on the stand. The judge struck the entire venire and rescheduled the trial. Over defense objections, the juror was allowed to testify in the second trial as to what he heard the defendant say after jury selection for the first trial. On appeal, the Fifth District reversed and remanded the case finding that the trial court's allowance of the juror's testimony at the second trial was not harmless error. In addition, the Fifth District noted that the supreme court's decision in State v. Bowers, 37 Fla. L. Weekly S136 (Fla. Feb. 23, 2012), which opinion was rendered during the pendency of the defendant's appeal in this case, was applicable to the facts of this case and the defendant should be allowed to seek another evidentiary hearing on his motion to suppress.
http://www.5dca.org/Opinions/Opin2012/032612/5D11-742.op.pdf

IV. Torts/Accident Cases

Milanese v. City of Boca Raton, 84 So. 3d 339 (Fla. 4th DCA 2012).

The district court granted petitioner's motion for rehearing en banc and affirmed the circuit court's dismissal of petitioner's third amended complaint, holding that the police did not owe a duty of care to the decedent.

The decedent was stopped by a police officer for impaired driving (due to a 9-1-1 call by the decedent's cousin who was following the decedent), taken into custody, and his vehicle was towed. The officer ordered the cousin to leave and transported the decedent to the police station where the officer issued several citations to the decedent (but not for DUI). The officer then called a cab for the decedent. The cab arrived at the station, and the officer released the still-impaired decedent by escorting him to the front doors of the police department sending him out "into the darkness of the early morning" to go and find the cab. The cab driver didn't see the decedent and left without him. Not quite an hour after his release from the police department, the decedent ended up lying next to a nearby railroad track and was struck and killed by a train.

The majority opinion found no duty of care was created between the police and the decedent, relying on the precedent of Lindquist v. Woronka, 706 So. 2d 358 (Fla. 4th DCA 1998), because (1) the decedent was not in custody or otherwise restrained by the police at the time of his death; and, (2) there was no "state-created danger" or "zone of risk" grounds that applied. The majority opinion held that "[t]he police did not create Milanese's impaired condition or the surroundings into which he was released." The majority and dissenting opinions provide a detailed discussion of the "zone of risk," the "state-created danger test," and, "the undertaker's doctrine."
http://www.4dca.org/opinions/Feb%202012/02-22-12/4D09-5247.op.en%20banc.pdf

V. Drivers' Licenses

Nader v. Florida Department of Highway Safety and Motor Vehicles, 87 So. 3d 712 (Fla. 2012).

The supreme court received two certified questions from the Second District as a matter of great public importance and decided both as follows.

First certified question: "Does a law enforcement officer's request that a driver submit to a breath, blood, or urine test, under circumstances in which the breath-alcohol test is the only required test, violate the implied consent provisions of Section 316.1932(1)(A)(1)(a) such that the department may not suspend the driver's license for refusing to take any test?"

Answer: No. The court reviewed the statutory scheme for the implied consent statute and the notice and procedure to request administrative review of a license suspension. The defendant's driver's license in this case was suspended after she was arrested for DUI, given an implied consent warning on a DHSMV statewide form, and refused the only test offered her, i.e., a breath test. A series of appeals, discussed in the response to the second certified question, brought the case before the supreme court. The court found that the word "or" in the statutory phrase "breath, blood, or urine test," contained in the implied consent warning given the defendant, is meant to be used in the disjunctive, meaning that a driver has a choice of one of three tests. The supreme court noted the circuit court finding, based on the record, that the defendant did not feel "obligated to take either or both of the other tests."

Second certified question: "May a district court grant common law certiorari relief from a circuit court's opinion reviewing an administrative order when the circuit court applied precedent from another district court but the reviewing district court concludes that the precedent misinterprets clearly established statutory law?"

Answer: Yes. A district court may "grant certiorari review of a circuit court decision reviewing an administrative order, so long as the decision under review violates a clearly established principle of law resulting in a miscarriage of justice, even if the circuit court decision was based on precedent from another district."

The defendant challenged the administrative suspension of her license and was denied relief. The defendant then challenged her suspension to the circuit court under a writ of certiorari (first-tier review). The circuit court reversed the suspension based upon a Fourth District opinion which found that a driver's license suspension could be reversed by the circuit court if the implied consent warning given by the officer warned that driving privileges would be suspended if the driver refused to submit to a breath, blood, or urine test (and only one test was offered). The Department of Highway Safety and Motor Vehicles requested certiorari review by the Second District of the circuit court's decision. The Second District granted a second-tier certiorari review finding that the

Fourth District opinion, relied upon by the circuit court, disregarded the plain language of the applicable statute and violated clearly established law. The Second District upheld the license suspension of the defendant and certified the above two questions to the supreme court.

The supreme court opinion discusses appellate review noting that county courts may appeal their decisions directly to the circuit courts or by certiorari to the district courts. However, because circuit courts must apply existing precedent from another district if its district has not yet spoken, and administrative decisions may only be appealed to the circuit courts, a party cannot argue that the circuit court should rule differently on the same issue of law as they would be able to do if they could direct appeal to the district court. Therefore, the supreme court asked the Florida Bar Appellate Court Rules Committee to review whether a circuit court reviewing an administrative decision should be able to certify final orders to the district court on questions of great public importance.

The dissent in this case states that "the majority unnecessarily expands second-tier certiorari jurisdiction far beyond the well-established parameters of Florida law to an area, and on a premise, never before recognized." The dissent opines that the majority opinion is "granting each district court unfettered discretion to involve itself in matters with which it merely disagrees," and blurs the line between issues of great public importance and ordinary legal disputes.
http://www.floridasupremecourt.org/decisions/2012/sc09-1533.pdf