

**IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT**

JULY TERM 2003

MILIADES PEGUERO,

Appellant,

v.

CASE NO. 5D03-332

STATE OF FLORIDA,

Appellee.

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Decision filed December 19, 2003

**Appeal from the Circuit
Court for Orange County,
Anthony H. Johnson, Judge.**

**James B. Gibson, Public Defender, and
Anne Moorman Reeves, Assistant Public Defender,
Daytona Beach, for Appellant.**

**Charles J. Crist, Jr., Attorney General, Tallahassee, and
Lamy A. Henry, Assistant Attorney General,
Daytona Beach, for Appellee.**

PER CURIAM.

AFFIRMED.

ORFINGER and TORPY, JJ., concur.
SHARP, W., J., dissenting, with opinion.

SHARP, W., J., dissenting.

This is an *Anders* case.¹ In my view, appellant has stated a potentially meritorious defense to his conviction and sentence – that he was forced to accept a plea to two cases (02-118 and 02-3804) or proceed to trial at a time when his trial counsel was not prepared because he had just been assigned the second case (02-3804), which the state intended to use at the trial in case number 02-1118. Thus the trial court may have abused its discretion by denying a continuance or the appellant’s motion to withdraw his plea. I would order appellant’s counsel to file a merit brief addressing that issue, and have this case proceed as a non-*Anders* case.

¹ *Anders v. California*, 386 U.S. 738 (1967).