

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

STATE OF FLORIDA,

Appellant,

v.

CASE NO. 1D04-5295

TOMESHA MARIE HOWARD,

Appellee.

\_\_\_\_\_ /

Opinion filed June 2, 2008.

An appeal from the Circuit Court for Alachua County.  
Larry G. Turner, Judge.

Bill McCollum, Attorney General; and Bryan Jordan, Assistant Attorney General,  
Tallahassee, for Appellant.

Nancy A. Daniels, Public Defender; and David P. Gauldin, Assistant Public  
Defender, Tallahassee, for Appellee.

OPINION ON MANDATE

PER CURIAM.

The State of Florida appealed the trial court's order granting Appellee, Tomesha

Howard's, motion to suppress. Because the trial court based its ruling largely on Hilton v. State, 29 Fla. L. Weekly D1475 (Fla. 2d DCA June 18, 2004) (Hilton I), we reversed the order and remanded with instructions to the trial court to deny the motion to suppress on the authority of Hilton v. State, 901 So. 2d 155 (Fla. 2d DCA 2005) (en banc) (Hilton II); and we certified direct conflict with State v. Burke, 902 So. 2d 955 (Fla. 4th DCA 2005). See Fla. R. App. P. 9.030(a)(2)(A)(vi); State v. Howard, 909 So. 2d 390 (Fla. 1st DCA 2005).

Subsequently, the Supreme Court of Florida decided Hilton v. State, 961 So. 2d 284 (Fla. 2007), in which the court determined that the language in section 316.610(1) Florida Statutes (2001), authorizing vehicle stops for equipment that is “not in proper adjustment or repair” does not include windshield cracks. See id. at 292. “Thus, a stop for a cracked windshield is permissible only where an officer reasonably believes that the crack renders the vehicle ‘in such unsafe condition as to endanger any person or property.’” Id. The court quashed the Second District Court’s en banc decision, Hilton II, and remanded for further proceedings not inconsistent with the opinion. See Hilton, 961 So. 2d at 300.

Upon discretionary review by the Supreme Court of Florida, our decision was quashed pursuant to Hilton, 961 So. 2d at 284, and remanded to our court. Accordingly, we set aside our original opinion in Howard, 909 So. 2d at 390, and

remand to the trial court for further proceedings consistent with Hilton, 961 So. 2d at 284.

BROWNING, C.J., KAHN and LEWIS, JJ., CONCUR.