

IN THE SECOND DISTRICT COURT OF APPEAL, LAKELAND, FLORIDA
May 4, 2005

JIMMY STUART BOWEN,)
)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D04-5369

BY ORDER OF THE COURT:

Appellant's motion for clarification is granted. The opinion dated March 9, 2005, is withdrawn, and the attached opinion is substituted therefor. Appellant's motion for rehearing is denied.

I HEREBY CERTIFY THE FOREGOING IS A
TRUE COPY OF THE ORIGINAL COURT ORDER.

JAMES BIRK HOLD, CLERK

cc: Jimmy Stuart Bowen
Attorney General

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

| | | |
|---------------------|---|--------------------|
| JIMMY STUART BOWEN, |) | |
| |) | |
| Appellant, |) | |
| |) | |
| v. |) | Case No. 2D04-5369 |
| |) | |
| STATE OF FLORIDA, |) | |
| |) | |
| Appellee. |) | |
| _____ |) | |

Opinion filed May 4, 2005.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court
for Polk County; Dennis P. Maloney,
Judge.

PER CURIAM.

Affirmed. See Cook v. State, 816 So. 2d 773 (Fla. 2d DCA 2002). This
affirmance is without prejudice to any right Bowen might have to file a motion for
postconviction relief pursuant to Florida Rule of Criminal Procedure 3.850.

KELLY, CANADY, and WALLACE, JJ., Concur.