

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

STATE OF FLORIDA,)
)
 Appellant,)
)
 v.)
)
 KIPP KARSON KELLY,)
)
 Appellee.)
_____)

Case No. 2D12-71

Opinion filed September 21, 2012.

Appeal from the Circuit Court for Manatee
County; Scott M. Brownell, Judge.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Elba Caridad Martin-
Schomaker, Assistant Attorney General,
Tampa, for Appellant.

James Marion Moorman, Public Defender,
and Matthew D. Bernstein, Assistant Public
Defender, Bartow, for Appellee.

CASANUEVA, Judge.

The State appeals the dismissal of an information filed against Kipp
Karson Kelly charging him with possession of a controlled substance. The trial court
dismissed the information based on its finding that section 893.13, Florida Statutes

(2011), was unconstitutional pursuant to Shelton v. Secretary, Department of Corrections, 802 F. Supp. 2d 1289 (M.D. Fla. 2011), rev'd, 2012 WL 3641008 (11th Cir. Aug. 24, 2012). Because the Florida Supreme Court upheld the constitutionality of section 893.13 in State v. Adkins, 37 Fla. L. Weekly S449 (Fla. July 12, 2012), we reverse the order of dismissal and remand with instructions that the trial court reinstate the charges against Mr. Kelly.

WHATLEY and CRENSHAW, JJ., Concur.