

Supreme Court of Florida

No. SC02-1254

ADAM FRANK SEARLES,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[September 30, 2004]

PER CURIAM.

We have for review the decision in Searles v. State, 816 So. 2d 793 (Fla. 2d DCA 2002), which expressly and directly conflicts with this Court's decision in Cardenas v. State, 867 So. 2d 384 (Fla. 2004), on the harmless error analysis to be applied in DUI cases in which an instruction on the statutory presumption of impairment is given in error. We have jurisdiction. See art. V, § 3(b)(3), Fla. Const. We accept this case for review, quash the decision of the Second District Court of Appeal, and remand for reconsideration in light of our opinion in Cardenas.

It is so ordered.

PARIENTE, C.J., and ANSTEAD, LEWIS, CANTERO and BELL, JJ., concur.
WELLS and QUINCE, JJ., dissent.

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

Application for Review of the Decision of the District Court of Appeal - Certified
Direct Conflict of Decisions

Second District - Case No. 2D00-2781

(Lee County)

James Marion Moorman, Public Defender and Jeffrey Sullivan, Special Assistant
Public Defender, Twentieth Judicial Circuit, Bartow, Florida,

for Petitioner

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