

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

JULY TERM 2004

CHARLES K. BLACKBURN,

Appellant,

v.

CASE NO. 5D03-3874

STATE OF FLORIDA,

Appellee.

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Opinion filed December 3, 2004

Appeal from the Circuit Court
for Orange County,
Stan Strickland, Judge

James B. Gibson, Public Defender,
and Leonard Ross, Assistant Public
Defender, Daytona Beach, for Appellant.

Charles J. Crist, Jr., Attorney General,
Tallahassee, and Rebecca Roark Wall, Assistant
Attorney General, Daytona Beach, for Appellee.

PER CURIAM.

ON MOTION FOR NEW TRIAL

In this case the appellant entered a plea to criminal charges and reserved his right to appeal the denial of his motion to suppress. Because the parties agree that a transcript of the hearing on the motion to suppress is unobtainable and in all likelihood cannot be accurately reconstructed, through no fault of the Appellant, the appellant is entitled to withdraw his plea and proceed with a new suppression hearing. See Green v. State, 855 So. 2d 687 (Fla. 2d DCA 2003).

REVERSED and REMANDED.

SHARP, W., GRIFFIN and MONACO, J.J., concur.

