

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

JOHNNY WESLEY TOLIVER,  
Appellant,

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

v.

CASE NO. 1D02-0882

STATE OF FLORIDA,  
Appellee.

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Opinion filed April 27, 2005.

An appeal from the Circuit Court for Duval County.  
Henry E. Davis, Judge.

Appellant, pro se.

Charlie Crist, Attorney General, Tallahassee, for Appellee.

On The Court's Own Motion

We sua sponte withdraw the pre-mandate opinion in this case and substitute the  
following:

PER CURIAM.

AFFIRMED. See Bates v. State, 887 So. 2d 1214 (Fla. 2004).

KAHN, WEBSTER and HAWKES, JJ., CONCUR.