

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

RAY L. MONK,
Appellant,

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

v.

STATE OF FLORIDA,
Appellee.

CASE NO. 1D02-4461

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Opinion filed March 31, 2005.

An appeal from the Circuit Court for Columbia County.
Paul S. Bryan, Judge.

Nancy A. Daniels, Public Defender; G. Kay Witt, Assistant Public Defender,
Tallahassee, for Appellant.

Charles J. Crist, Jr., Attorney General; Charlie McCoy, Senior Assistant Attorney
General, Tallahassee, for Appellee.

PER CURIAM.

AFFIRMED. See Simmons v. State, 886 So. 2d 399 (Fla. 1st DCA 2004).

WOLF, C.J., and DAVIS, J., CONCUR; BROWNING, J., CONCURS WITH
WRITTEN OPINION.

BROWNING, J., concurring.

I concur only because Simmons is controlling precedent, but I believe it was incorrectly decided, as stated in my dissent in Simmons.