

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

OLLIE GASTON,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

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CASE NO. 1D04-3500

Opinion filed August 31, 2005.

An appeal from the Circuit Court for Bay County.  
Don T. Sirmons, Judge.

Nancy A. Daniels, Public Defender; Hunter P. Pfeiffer, Assistant Public Defender,  
Tallahassee, for Appellant.

Charlie Crist, Attorney General; Alan R. Dakan, Assistant Attorney General,  
Tallahassee, for Appellee.

PER CURIAM.

Upon consideration of the State's confession of error, see Boca Burger, Inc. v. Forum, 30 Fla. L. Weekly S539, S543 (Fla. July 7, 2005) (noting that "indefensible orders [or judgments] require[ of appellee's counsel] the quintessentially professional act of admitting defeat when there is no chance of victory") (emphasis omitted), we

summarily reverse appellant's conviction and remand for further proceedings. See generally Fla. R. App. P. 9.315(b)(2005).

Reversed and remanded.

BENTON, POLSTON, and HAWKES, JJ., CONCUR.