

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2005

ARTHUR SCOTT,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D03-4860

[June 8, 2005]

PER CURIAM.

Arthur Scott appeals his judgment of conviction and sentence for possession of cocaine and possession of drug paraphernalia. We affirm. See *Wright v. State*, 2005 WL 1026669, 30 Fla. L. Weekly D1127 (Fla. 4th DCA May 4, 2005) (holding that the amendment to section 839.101, Florida Statutes (2003), which removed guilty knowledge as an element of possession of a controlled substance and added lack of knowledge of the illicit nature of a controlled substance as an affirmative defense, is not facially unconstitutional on substantive due process grounds, thus, the trial court's failure to *sua sponte* instruct jury on guilty knowledge did not constitute fundamental error).

Affirmed.

FARMER, C.J., STONE and TAYLOR, JJ., concur.

* * *

Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Alfred J. Horowitz, Judge; L.T. Case No. 03-15042 CF 10 A.

Carey Haughwout, Public Defender, and Paul E. Petillo, Assistant Public Defender, West Palm Beach, for appellant.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Linda Harrison, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing.