

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

JANUARY TERM 2005

**STATE OF FLORIDA,**

Appellant,

v.

**COREY VILTZ,**

Appellee.

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CASE NO. 4D04-908

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Opinion filed February 2, 2005

Appeal of a non-final order from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Lucy C. Brown, Judge; L.T. Case No. 02-10751 CFD02.

Charles J. Crist, Jr., Attorney General, Tallahassee, and Laurel R. Wiley, Assistant Attorney General, West Palm Beach, for appellant.

Scott I. Suskauer of The Suskauer Law Firm, P.A., West Palm Beach, for appellee.

PER CURIAM.

The trial court granted defendant's motion to suppress because a deputy came through a gate into defendant's backyard without a search warrant. The state asserted that there were exigent circumstances, however, the trial court found that there were not and granted the motion. Because the backyard was clearly within the curtilage of defendant's home, State v. Sarantopoulos, 604 So. 2d 551 (Fla. 2d DCA 1992), and there is evidence to support the findings, we affirm.

POLEN, KLEIN and SHAHOOD, JJ., concur.

***NOT FINAL UNTIL DISPOSITION OF ANY  
TIMELY FILED MOTION FOR REHEARING.***