

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*July Term 2008*

**UTON W. CUNNINGHAM,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D07-4860

[November 12, 2008]

PER CURIAM.

The state has conceded error in this case based on *Luger v. State*, 983 So. 2d 49, 51 (Fla. 4th DCA DCA 2008), and *Scriber v. State*, 959 So. 2d 1254 (Fla. 4th DCA 2007). Therefore, this case is reversed and remanded to the trial court for appointment of conflict-free counsel.

SHAHOOD, C.J., WARNER and GROSS, JJ., concur.

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Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Charles M. Greene, Judge; L.T. Case No. 06-11052CF10A.

Carey Haughwout, Public Defender, and Alan T. Lipson, Assistant Public Defender, West Palm Beach, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Joseph A. Tringali, Assistant Attorney General, West Palm Beach, for appellee.

***Not final until disposition of timely filed motion for rehearing.***