

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FOURTH DISTRICT  
*January Term 2011*

**CORDELL FLOWERS,**  
Appellant,

v.

**STATE OF FLORIDA,**  
Appellee.

No. 4D10-2345

[February 16, 2011]

PER CURIAM.

We affirm the trial court's denial of appellant's sixth motion for postconviction relief which argued that the decision in *Arizona v. Gant*, 129 S. Ct. 1710 (2009), applies retroactively to his 1997 conviction. See Fla. R. Crim. P. 3.850(b)(2). This conviction became final when this court affirmed the judgment and sentence in 1998. *Flowers v. State*, 717 So. 2d 1031 (Fla. 4th DCA 1998) (Table).

Applying the retroactivity analysis of *Witt v. State*, 387 So. 2d 922 (Fla. 1980), we hold that the decision in *Gant* is an evolutionary refinement in Fourth Amendment law and not a development of fundamental significance, a major constitutional change, or jurisprudential upheaval that requires retroactive application to cases on collateral review. See, e.g., *Hughes v. State*, 901 So. 2d 837 (Fla. 2005); *Johnson v. State*, 904 So. 2d 400 (Fla. 2005); *Chandler v. Crosby*, 916 So. 2d 728 (Fla. 2005); *State v. Barnum*, 921 So. 2d 513 (Fla. 2005).

Additionally, we note that, under the facts of this case, *Gant* would not have compelled a different result on appellant's 1997 motion to suppress.

*Affirmed.*

STEVENSON, HAZOURI and CIKLIN, JJ., concur.

\* \* \*

Appeal of order denying rule 3.850 motion from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Martin J. Bidwill, Judge; L.T. Case No. 96-023689 CF10A.

Cordell Flowers, Live Oak, pro se.

No appearance required for appellee.

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