

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING
MOTION AND, IF FILED, DETERMINED

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

RICKY L. BAXTER,)	
)	
Appellant,)	
)	
v.)	Case No. 2D04-3646
)	
STATE OF FLORIDA,)	
)	
Appellee.)	
_____)	

Opinion filed November 5, 2004.

Appeal pursuant to Fla. R. App. P.
9.141(b)(2) from the Circuit Court for
Pinellas County; Brandt C. Downey, III,
Judge.

PER CURIAM.

Affirmed. See Wright v. State, 864 So. 2d 1153 (Fla. 2d DCA 2003) (en banc). As this court did in Wright, we certify direct conflict with Kirtsey v. State, 855 So. 2d 177 (Fla. 1st DCA 2003); Hernandez v. State, 825 So. 2d 513 (Fla. 4th DCA 2002); Bingham v. State, 813 So. 2d 1021 (Fla. 1st DCA 2002); Thames v. State, 769 So. 2d

448 (Fla. 1st DCA 2000); Hampton v. State, 764 So. 2d 829 (Fla. 1st DCA 2000); and Macias v. State, 614 So. 2d 1216 (Fla. 3d DCA 1993).

Affirmed; conflict certified.

DAVIS, KELLY, and VILLANTI, JJ., Concur