

Supreme Court of Florida

CORRECTED OPINION

No. SC95754

ALLEN SILAS,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

[March 15, 2001]

LEWIS, J.

We have for review State v. Gitto, 731 So. 2d 686 (Fla. 5th DCA 1999), in which the petitioner, Allen Silas, was one of several appellees below. The reasoning applied by the Fifth District Court of Appeal in Gitto was expressly disapproved in State v. Warner, 762 So. 2d 507 (Fla. 2000). Therefore, the decision of the appellate court is quashed, and the case is remanded for consideration and determination in accordance with the principles announced in Warner.

It is so ordered.

WELLS, C.J., and SHAW, HARDING, ANSTEAD and PARIENTE, JJ., concur.
QUINCE, J., concurs in result only.

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

Application for Review of the Decision of the District Court of Appeal -
Direct Conflict

Fifth District - Case No. 5D97-1376

(Seminole County)

James B. Gibson, Public Defender, and Michele A. Lucas, Assistant Public
Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, and Belle B. Schumann, Assistant
Attorney General, Daytona Beach, Florida,

for Respondent