

Supreme Court of Florida

No. SC95774

OSCAR RAY BOLIN,
Appellant,

vs.

STATE OF FLORIDA,
Appellee.

[August 30, 2001]

PER CURIAM.

We have on appeal a judgment of conviction of first-degree murder and a sentence of death. We have jurisdiction. See art. V, § 3(b)(1), Fla. Const. In accord with our decision in Bolin v. State, 26 Fla. L. Weekly S511 (Fla. July 13, 2001) (“Bolin I”), we reverse Bolin’s convictions and sentences and order a new trial.

Bolin was charged with the robbery, kidnaping, and murder of Natalie Blanche Holley. While awaiting his trial, Bolin attempted to commit suicide and wrote a letter to Captain Terry, who was investigating the charged crimes. As in

Bolin I, the trial court erroneously held that Bolin had waived his spousal privilege in the suicide letter and improperly admitted evidence at the trial which was protected by the spousal privilege. The jury convicted him of armed robbery, kidnaping, and first-degree murder.

For the reasons expressed in Bolin I, we do not find competent, substantial evidence to support the trial court's decision that Bolin made a voluntary waiver through the letter. As in Bolin I, the State's case against Bolin revolved around privileged statements that Bolin made to his wife; this error cannot be considered to be harmless.¹ Therefore, we reverse Bolin's convictions and sentences and remand for a new trial.

It is so ordered.

WELLS, C.J., and SHAW, HARDING, ANSTEAD, PARIENTE, and LEWIS, JJ., concur.
QUINCE, J., recused.

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

An Appeal from the Circuit Court in and for Hillsborough County,

1. Due to our resolution of this issue, we do not address the other issues raised on appeal.

J. Rogers Padgett, Judge - Case No. 90-11832

James Marion Moorman, Public Defender, and Douglas S. Connor, Assistant Public Defender, Tenth Judicial Circuit, Bartow, Florida,

for Appellant

Robert A. Butterworth, Attorney General, and Candance M. Sabella, Assistant Attorney General, Tampa, Florida,

for Appellee