

Third District Court of Appeal

State of Florida

Opinion filed November 7, 2018.
Not final until disposition of timely filed motion for rehearing.

No. 3D18-1647
Lower Tribunal Nos. 18-8009 & 12-29042

Janis Fleming,
Petitioner,

vs.

The State of Florida,
Respondent.

A Writ of Certiorari to the Circuit Court for Miami-Dade County, Veronica A. Diaz, Judge.

Law Offices of Grey and Mourin, and Jason Grey and Lana Cucchiella, for petitioner.

Pamela Jo Bondi, Attorney General, and Marlon J. Weiss, Assistant Attorney General, for respondent.

Before EMAS, FERNANDEZ, and LOGUE, JJ.

PER CURIAM.

Although the trial court properly decided the other issues on review, the circuit court departed from the essential requirements of law when it ruled it was legally barred from viewing the videotape of the altercation at the heart of this matter, as the State commendably concedes. Precisely because the county court expressly based its factual finding on a determination that the videotape contradicted the testimony of the defendant, the circuit court should have included a review of the videotape in deciding whether the county court's fact finding was supported by any competent substantial evidence.

Petition granted.