

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JULY TERM, A.D. 2001

KELVIN LAMAR BURNEY,	**	
Appellant,	**	
vs.	**	CASE NO. 3D01-1116
THE STATE OF FLORIDA,	**	LOWER
Appellee.	**	TRIBUNAL NO. 95-33208

Opinion filed October 17, 2001.

An Appeal under Fla.R.App.P. 9.141(b)(2) from the Circuit Court for Dade County, Marc Schumacher, Judge.

Kelvin Lamar Burney, in proper person.

Robert A. Butterworth, Attorney General, for appellee.

Before SCHWARTZ, C.J., and JORGENSON and COPE, JJ.

PER CURIAM.

Affirmed on authority of Foster v. State, ____ So. 2d ____ (Fla. 3d DCA Case no. 3D01-2109, opinion filed, September 19, 2001); contra Murphy v. State, 773 So. 2d 1174 (Fla. 2d DCA 2000); Mortimer v. State, 770 So. 2d 743 (Fla. 4th DCA 2000); see also Booker v. State, 771 So. 2d 1187 (Fla. 1st DCA 2000), review granted, 791 So. 2d 1095 (Fla. 2001).