

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

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
THIRD DISTRICT
JANUARY TERM, A.D. 2004

PATRICK PENN,

**

Appellant,

**

vs.

**

CASE NO. 3D02-2938

THE STATE OF FLORIDA,

**

LOWER

TRIBUNAL NO. 02-3937

Appellee.

**

Opinion filed February 25, 2004.

An Appeal from the Circuit Court for Miami-Dade County, Jerald Bagley, Judge.

Bennett H. Brummer, Public Defender, and Bruce A. Rosenthal, Assistant Public Defender, for appellant.

Charles J. Crist, Jr., Attorney General, and Paulette R. Taylor, Assistant Attorney General, for appellee.

Before FLETCHER, SHEVIN, and SHEPHERD, JJ.

PER CURIAM.

Affirmed. See State v. Cooper, 835 So. 2d 377 (Fla. 3d DCA 2003).