

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

THE STATE OF FLORIDA,

Appellant,

vs.

CASE NOS.

L.T. NOS.

CHRISTOPHER KORTH,	3D03-2247	8740BUS
MICHEL FERNANDEZ,	3D03-2246	4915BUR
ROBERNIS PEREZ,	3D03-2245	4183BDF
ARMANDO DEVALLE,	3D03-2244	3439BWZ
OSVALDO GONZALEZ,	3D03-2243	5903BVK
GUILLERMO VELARDE,	3D03-2088	9930BVA
ALFONSO LAZARO,	3D03-2086	1329BVC
JONATHAN GUERRERO,	3D03-1965	8744BQS
JACOB TENCHER,	3D03-1956	9969BVA
MICHELLE CORDERO,	3D03-1953	6727BGP
JOSE CALLAVA,	3D03-1952	8112BUU
JOSE AGUILERA,	3D03-1951	9744BOG
RAUL GRANADA,	3D03-1950	3619BUV
SANDRA GUARDIOLA,	3D03-1946	8801BOY
LUIS MURRAY,	3D03-2085	4218BJB
JOAN ESTADELLA,	3D03-1950	3619BUV

Appellees.

Opinion filed June 23, 2004.

Appeals from the County Court for Miami-Dade County, Edward Newman and Israel Reyes, Orlando A. Prescott, Rosa C. Figarola, and Luise Krieger-Martin, Judges.

Charles J. Crist, Jr., Attorney General, and Meredith L. Balo, Assistant Attorney General, for appellant.

Bennett H. Brummer, Public Defender, and Shannon P. McKenna, Assistant Public Defender, for appellees Christopher Korth, Michel Fernandez, Robernis Perez, Armando Delvalle, Osvaldo Gonzalez, Guillermo Velarde, Alfonso Lazaro, Jonathan Guerrero, Jacob Tencher, and Sandra Guardiola; Helen Raisman for appellee Michelle Cordero; Maritza Alvarez for appellee Jose Callava; Miguel Del Aguila for appellee Jose Aguilera; Humberto Dominguez for appellee Raul Granada; Paul Molle for appellee, Luis Murray; and Lewis Fishman for appellee Joan Estadella.

Before SCHWARTZ, C.J., and GERSTEN, and WELLS, JJ.

WELLS, Judge.

We accepted jurisdiction in these now consolidated appeals to address the following question certified as being of great public importance:

IS THE FLORIDA DEPARTMENT OF LAW ENFORCEMENT REQUIRED TO ADOPT RULES IN ACCORDANCE WITH THE FLORIDA ADMINISTRATIVE PROCEDURES ACT GOVERNING THE COLLECTION, PRESERVATION, AND ANALYSIS OF URINE SAMPLES OBTAINED BY LAW ENFORCEMENT PURSUANT TO SECTION 316.1932(1)(a), FLORIDA STATUTES?<sup>1</sup>

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<sup>1</sup>This question was also posed as follows by two different County Court judges:

DOES AN ARRESTEE CONSENT, UNDER THE AUSPICES OF THE IMPLIED CONSENT LAW, § 316.1932(1)(a)1, FLA. STAT., TO HIS/HER SEIZURE OF URINE WHEN THERE IS NO APPROVED TEST FOR THE DETECTION THEREIN OF CHEMICAL OR CONTROLLED SUBSTANCES, OR THEIR METABOLITES?

Can the State introduce urine test results of a defendant's urine sample obtained by law enforcement pursuant to Florida Statute, section 316.1932(1)(a), Florida's implied consent law, where the officer who read the implied consent warnings to the defendant never expressly stated that the test being offered was an "approved" test, and the Florida Department of Law Enforcement (FDLE) has not promulgated rules governing urine collection and testing?

This question has recently been answered by the Florida Supreme Court in State v. Bodden, 2004 WL 792826, 29 Fla. L. Weekly S153 (Fla. April 15, 2004), which holds that section 316.1932(1)(a)(1) of the Florida Statutes does not require that urine testing procedures be promulgated and "approved" by rule in accordance with Florida's Administrative Procedure Act.<sup>2</sup>

We therefore reverse the orders entered in each of these consolidated appeals which excluded the results of urine tests procured under the aegis of section 316.1932, the implied consent law relating to the operation of motor vehicles.

Reversed and remanded.

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<sup>2</sup>Since the implied consent law for operators of motor vehicles (section 316.1932(1)(a)) does not require that urine testing methods be approved, the questions certified in footnote 1 above must be answered in the affirmative. The orders precluding introduction of such test results in each of the cases in which these questions were posed, must, therefore, be reversed as well.