

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., 2004

DONALD BURGESS,

Appellant, **

vs. **

THE STATE OF FLORIDA, **

CASE NO. 3D04-24

Appellee. **

LOWER
TRIBUNAL NO. 01-11302

**

Opinion filed October 6, 2004.

An appeal from the Circuit Court for Miami-Dade County,
Thomas M. Carney, Judge.

Bennett H. Brummer, Public Defender, and Robert Kalter,
Assistant Public Defender, for appellant.

Charles J. Crist, Jr., Attorney General, and John D.
Barker, Assistant Attorney General, for appellee.

Before GREEN, SHEVIN and WELLS, JJ.

PER CURIAM.

We affirm the conviction without prejudice to defendant
raising ineffective assistance of trial counsel in an
appropriate post-conviction motion.

Affirmed.