

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

JONATHAN SIMMONS,

**

Appellant,

**

vs.

** CASE NO. 3D04-2757

THE STATE OF FLORIDA,

**

Appellee.

** LOWER
TRIBUNAL NO. 88-43713

**

Opinion filed December 8, 2004.

An Appeal under Florida Rule of Appellate Procedure 9.141(b) (2) from the Circuit Court for Miami-Dade County, David H. Young, Judge.

Jonathan Simmons, in proper person.

Charles J. Crist, Jr., Attorney General, for appellee.

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

PER CURIAM.

Affirmed. See *Burgal v. State*, ____ So. 2d ____ (Fla. 3d DCA Case no. 3D03-3016, opinion filed, November 17, 2004)[29 FLW D2586].