Case Law Update
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First District Court of Appeal

Manzanares v. State, 1D22-3565 (Dec. 28, 2022)

The First District, without written opinion, dismissed a prohibition petition which sought the disqualification of a county court judge from presiding over a criminal traffic case. One judge dissented, noting that the petition "alleges that the county judge has an inflexible sentencing policy, which can be a basis to disqualify a trial judge." Without setting forth any other facts, the dissent also cited prior case law which holds that "[w]hen a judge has looked beyond the mere legal sufficiency of a suggestion of prejudice and attempted to refute the charges of partiality, he has then exceeded the proper scope of his inquiry and on that basis alone established grounds for his disqualification."

Second District Court of Appeal

Bin Islam v. State, 2D21-1797 (Dec. 3, 3022)

The Second District granted a motion for clarification, withdrew its prior opinion, and issued a substitute opinion.

The Court's prior and substitute opinions were both a single paragraph, and the text of that opinion has not changed. The Court transferred the appeal to the Thirteenth Judicial Circuit for disposition, noting that section 316.16(1) provides that "[i]f a person is found to have committed an infraction by the hearing official, he or she may appeal that finding to the circuit court," and "it certainly does not use any limiting language such as "'only a person. . . .' Therefore, we conclude that if the circuit court has jurisdiction over a defendant's appeal in these matters, then it follows that the circuit court has jurisdiction over a State's appeal in these matters. Any other construction would lead to counterintuitive results."

While not clear from the one-paragraph opinion of the Court, from the dissent, it is clear that the Court is addressing the right of the State to appeal a county court's dismissal of a noncriminal traffic citation, where the order was entered by the county judge, "acting in her capacity as a hearing official." The dissent concludes that the

statute in question did not "expressly provide that the *State* may appeal decisions of a hearing official to the circuit court," that the circuit court thus lacked jurisdiction to entertain an appeal by the State, and that any appeal by the State should therefore go to the district court of appeal.

Johnson v. State, 2D21-3220 (Dec. 30, 2022)

The Second District remanded the case to the trial court for the correction of multiple scrivener's errors and discrepancies between oral and written sentencing pronouncements.

Phillips v. State, 2D22-758 (Dec. 29, 2022)

The Court granted a motion to certify the following question of great public importance to the Supreme Court of Florida:

> FOR PURPOSES OF DOUBLE JEOPARDY, DOES A SENTENCE FOR MULTIPLE COUNTS CONSTITUTE A SENTENCING PACKAGE, SUCH THAT A DEFENDANT'S CHALLENGE TO THE SENTENCE FOR ONE COUNT PERMITS THE TRIAL COURT TO REOPEN THE SETNENCE FOR ANOTHER COUNT TO COMPLY WITH THE LAW OR TO EFFECTUATE THE TRIAL COURT'S SENTENCING INTENT?

Fifth District Court of Appeal

Jones v. State, 5D22-757 (Dec. 30, 2022)

The trial court failed "to render a written order finding [Jones] competent before proceeding to trial." "One a defendant's competency is called into question, a trial court must make 'an independent, legal determination' that a defendant is competent to proceed, even if the defendant withdraws his notice of incompetence after being evaluated, as Jones did." On remand, the trial court was authorized to make a nunc pro tunc competency determination if possible. If not possible, a new trial would be required.