

# Florida Appeals Court Decisions: Week of November 30 - December 4, 2020

December 05, 2020

## U.S. Eleventh Circuit Court of Appeals

*Lucoff v. Navient Solutions* - TCPA, express consent for calls

*USA v. Green* - RICO, search and seizure, peremptory, evidence, sentencing

*USA v. Bobal* - criminal, motion for new trial, restriction on computer use

*Alfaro-Garcia v. USA* - immigration, removal

*M&C v. Oppenheim* - class action, fiduciary duties, damages

*USA v. Johnson* - domestic-violence misdemeanor, firearm possession

*USA v. Campbell* - order granting rehearing en banc, vacating *this* decision

*Nance v. Ga DOC* - postconviction relief

*USA v. Watkins* - search and seizure, inevitable discovery

*Keohane v. Fla DOC* - order denying rehearing en banc

*R&R v. Banco Do Brasil* - Foreign Sovereign Immunities Act

*Erickson v. First Advantage* - FCRA, evidence

## Florida Supreme Court - Tallahassee

*Hojan v. State* - capital case, direct appeal

*In re Fla R App P* - amended rules

*In re Add'l Judges* - additional judges

*In re Fla R App P* - amended rules

## First District Court of Appeal - Tallahassee

*TH v. DCF* - dependency

*Ford v. State* - circumstantial evidence, murder; “and/or” instruction

*DOT v. Tropical Trailer Leasing* - injunction, highway tolls; class allegations, striking  
*Lutz v. Panetta* - restrictive covenants  
*FWC v. King* - employment, USERRA, sovereign immunity  
*Falduto v. Lewis* - rule 1.420, voluntary dismissal  
*Palazzi v. State* - certiorari, immunity  
*Williams v. State* - pro se sanctions  
*Jordan v. State* - postconviction relief  
*Williams v. State* - murder, evidence; motion for election  
*Fitzsimmons v. State* - child hearsay, sexual battery  
*Wainwright v. State* - pro se petitions, represented party  
*Brown v. State* - untimely appeal

## Second District Court of Appeal - Lakeland

*Alvarado-Contreras v. State* - impeachment, bias  
*Forman v. State* - sentencing  
*Timke v. State* - probation revocation  
*Thomas v. Thomas* - unpaid rent, findings  
*York v. State* - sentencing  
*Crowder v. State* - public defender fee, unpreserved error  
*Ludwigsen v. Ludwigsen* - certiorari, psychological exam

## Third District Court of Appeal - Miami

*Belson v. Miller* - rule 1.150, sham pleadings  
*Sablotsky v. Gonzalez-Hernandez* - prevailing party fees  
*Energy Smart v. Millennium CA* - failure to prosecute, sham pleading  
*Galleon Bay v. Monroe Cnty* - inverse condemnation  
*Kachkar v. US Bank* - foreclosure sale, resetting, intervention  
*BJ's v. Bugliaro* - arbitration, trial court jurisdiction pending appeal  
*Wahnon v. Coral & Stones* - certiorari, civil contempt  
*Aquino v. State* - postconviction relief  
*Williamson v. Prime Sports Mktg* - personal jurisdiction, Zion  
*GR v. APD* - disabilities, Medicare waiver program  
*Delgado v. Miller* - certiorari, free speech, parenting  
*Rodriguez v. Falcones* - default judgment, rule 1.540, findings  
*Evans v. State* - postconviction relief  
*Shir Law Grp v. Carnevale* - prohibition, judicial disqualification  
*Tuoza v. Citizens* - appellate jurisdiction  
*Owens v. State* - prohibition, motion to dismiss information  
*Clarrington v. State* - prohibition, remote hearing, Covid-19

*Britt v. Inch* - habeas corpus

*VME Grp v. Grand CA* - prohibition, judicial disqualification

## Fourth District Court of Appeal - West Palm Beach

*Shivers v. State* - sentencing

*Escobar v. State* - counsel fees

*Lubitz v. Schenden* - charging lien

*State v. Stevenson* - felony THC possession

*CSC Serviceworks v. Boca Bayou Condo Assn* - wrongful eviction, res judicata

*McKenzie v. State* - probation revocation

*Williams v. State* - postconviction relief

*Caballero v. State* - habeas corpus, DNA evidence

*Rodriguez v. State* - subpoena, medical records

## Fifth District Court of Appeal - Daytona Beach

*Francis v. State* - attempted manslaughter, officer; warrantless entry, instruction

*Howitt v. State* - leaving scene, accident; sobriety test refusal, DUI

*Botto v. State* - postconviction relief, ineffective assistance

*Jones v. Najera* - stalking injunction

*Torruella v. Nationstar Mortgage* - attorney's fees, lack of personal jurisdiction

*Hughley v. State* - drug trafficking, preservation

*Baxley Manor v. Brevard Housing Auth* - injunction, zoning; judgment on pleadings

*Thompson v. Johnson* - summary judgment; life insurance, subjective intent

*Shawl v. State* - drug possession, constructive possession

*Kemp v. State* - postconviction relief

*US Bank v. Forsyth* - foreclosure complaint, verification, Rule 1.115(e)

*Hawkins v. State* - *Spencer* warning, pro se

*Zalloum v. Bank of NY* - foreclosure, confession of error

*Velez v. LaFontaine* - prohibition, objective standard, legal rulings

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