

Third District Court of Appeal

State of Florida

Opinion filed September 25, 2024.
Not final until disposition of timely filed motion for rehearing.

No. 3D22-1925
Lower Tribunal No. F22-15009

The State of Florida,
Appellant,

vs.

Robert Lee Wood,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, Milton Hirsch, Judge.

Ashley Moody, Attorney General, and Henry C. Whitaker, Solicitor General, Jeffrey Paul DeSousa, Chief Deputy Solicitor General, and Alison E. Preston, Deputy Solicitor General (Tallahassee), for appellant.

Law Office of Larry S. Davis, P.A., and Larry S. Davis and Shana Korda (Hollywood); Kuehne Davis Law, P.A., and Benedict P. Kuehne, Michael T. Davis, Susan Dmitrovsky and Johan Dos Santos, for appellee.

Dianne Carames; Daniel Tibbitt, for the Florida Association of Criminal Defense Lawyers-Miami Chapter, as amicus curiae.

Reid Levin, PLLC, and Reid Levin (Boca Raton); Akin Gump Strauss Hauer & Feld LLP, and Steven H. Schulman (Dallas, TX), David Giller, Caitlin E. Olwell, and Andrew A. McWhorter (New York, NY), for Former Members of the Commission on the Statewide Prosecution Function, as amici curiae.

American Civil Liberties Union, and Julie A. Ebenstein, and Jonathan Topaz (New York, NY); Proskauer Rose LLP, and Matthew Triggs (Boca Raton); Brennan Center for Justice at NYU School of Law, and Sara Carter (New York, NY); ACLU Foundation of Florida, Inc., and Nicholas L.V. Warren (Jacksonville), Caroline A. McNamara, and Daniel B. Tilley; NAACP Legal Defense and Educational Fund, Inc., and Leah C. Aden (New York, NY), for the American Civil Liberties Union, Brennan Center for Justice at NYU School of Law, ACLU Foundation of Florida, Inc., and NAACP Legal Defense and Educational Fund, Inc., as amici curiae.

Reed Smith LLP, and M. Patrick Yingling (Chicago, IL), and Wesley A. Butensky, for the Niskanen Center and former Florida State Senator Jeff Brandes, as amici curiae.

Davis Wright Tremaine LLP, and Matthew R. Tuchman (Washington, D.C.), for the Due Process Institute, as amicus curiae.

Toth Funes PA, and Freddy Funes; Willkie Farr & Gallagher LLP, and Ferdinand G. Suba, Jr., (New York, NY); Quinn Yeargain (Harrisburg, PA), for State Constitutional Law Scholars G. Alan Tarr, Robert F. Williams, and Quinn Yeargain, as amici curiae.

Quinn Emanuel Urquhart & Sullivan, LLP, and Owen F. Roberts (New York, NY), Samuel G. Williamson, and Thomas S.P. Geeker, for the Association of Prosecuting Attorneys, as amicus curiae

Before SCALES, LINDSEY and MILLER, JJ.

PER CURIAM.

Reversed. See State v. Miller, 2024 WL 3434091 (Fla. 3d DCA July 17, 2024) (holding that the Office of Statewide Prosecution had authority under section 16.56(1)(a) of the Florida Statutes to bring voting fraud

charges against a voter because the offense occurred in two Florida Judicial Circuits).

SCALES, J. (specially concurring)

Because we are bound by State v. Miller,¹ I concur in the reversal of the trial court's order dismissing the information against appellee Robert Lee Wood. If we were not bound by Miller, I would affirm for the reasons stated in my dissenting opinion in Miller, 2024 WL 3434091 at *5-7.

¹ A panel of this Court is bound by a prior holding on the same question of law by another panel of this Court. Nat'l Med. Imaging, LLC v. Lyon Fin. Servs., Inc., 347 So. 3d 63, 64 (Fla. 3d DCA 2020).