

543 So.2d 450, 14 Fla. L. Weekly 1277  
(Cite as: 543 So.2d 450)

District Court of Appeal of Florida,  
Fourth District.

Joe E. COPELAND, Appellant,

v.

STATE of Florida, Appellee.

**No. 88-2085.**

May 24, 1989.

**\*450** Appeal from the Circuit Court for Indian River County; Paul B. Kanarek, Judge. Clifford M. Miller of Miller & Miller, Vero Beach, for appellant.

Robert A. Butterworth, Atty. Gen., Tallahassee, and Deborah Guller, Asst. Atty. Gen., West Palm Beach, for appellee.

PER CURIAM.

The appellant was convicted by a jury for possession of cocaine. In our view, the state failed to present sufficient, independent proof to establish that the defendant was in constructive possession of the cocaine. See **\*451** [Hively v. State, 336 So.2d 127 \(Fla. 4th DCA 1976\)](#). Therefore, the trial court erred in denying the appellant's motion for a judgment of acquittal.

Accordingly, we reverse the appellant's conviction and sentence and remand with instructions to discharge the appellant.

REVERSED AND REMANDED WITH INSTRUCTIONS.

GLICKSTEIN, GUNTHER, JJ., and ROBINSON, STEVEN D., Associate Judge, concur.

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