

# FLORIDA LAW WEEKLY SEX CRIMES EDITION BY DENNIS NICEWANDER

Vol. 33, No. 27, July 4, 2008

Fowler v. State, 33 Fla. L. Weekly D1679 (Fla. 1<sup>st</sup> DCA 2008):

Circumstantial evidence was sufficient to support conviction for sexual battery on a child under 12 years of age despite child's inability to point out defendant in court; child continually, both in court and out, referred to man who put his "doughnut" in her mouth as "Earl," which was defendant's name, her mother and stepfather testified that they never referred to genitalia as "doughnut," and Earl was source of term, child's interview with child protection contained same allegations against Earl, she also described encounter with "Earl" at trial, Earl, was living with child and had sole access to her for period of time, and no other "Earl" would have had this access.

The identity of the perpetrator can be inferred from circumstantial evidence, and the lack of direct, in-court identification, goes to the strength of the case.

Strohm v. State, 33 Fla. L. Weekly D1645 (Fla. 4<sup>th</sup> DCA 2008):

Defendant's prior conviction for rape was dissimilar and remote in time from the charged offense of capital sexual battery against his eight-year-old daughter and, thus, should not have been admitted into evidence as collateral crime evidence at his trial on the capital sexual battery charge; rape occurred 17 years before the alleged battery, rape involved a 12-year-old victim who did not know defendant, and rape involved a one-time vaginal penetration of the victim, as opposed to another form of sexual abuse over a several-month period, as was alleged in sexual battery case.

State v. Wooding, 33 Fla. L. Weekly D1654 (Fla. 3<sup>rd</sup> DCA 2008):

Registration statute was facially constitutional as applied to defendant who was charged with failing to register as a sexual predator, as determined by *Milks v. State* and *Connecticut Department of Public Safety v. Doe*; defendant claimed that statute, as applied, was unconstitutional as it was vague and violated his equal protection rights, including the right to travel without having a permanent or temporary residence. Registration statute was facially constitutional as applied to defendant who was charged with failing to register as a sexual predator, as determined by *Milks v. State* and *Connecticut Department of Public Safety v. Doe*; defendant claimed that statute, as applied, was unconstitutional as it was vague and violated his equal protection rights, including the right to travel without having a permanent or temporary residence.

