

[DO NOT PUBLISH]

IN THE UNITED STATES COURT OF APPEALS

FOR THE ELEVENTH CIRCUIT

No. 10-13881

FILED  
U.S. COURT OF APPEALS  
ELEVENTH CIRCUIT  
SEPTEMBER 20, 2011  
JOHN LEY  
CLERK

D.C. Docket No. 2:09-cr-00033-RWS-SSC-1

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

JAMES PETER ROBERTS,  
a.k.a. Roberts, James,

Defendant - Appellant.

Appeal from the United States District Court  
for the Northern District of Georgia

(September 20, 2011)

Before HULL and FAY, Circuit Judges, and VINSON,\* District Judge.

PER CURIAM:

\*Honorable C. Roger Vinson, United States District Judge for the Northern District of Florida, sitting by designation.

Under the facts and circumstances of this case, we find that the statement made by the Defendant was an unequivocal request for a lawyer and that he did not reinitiate any conversation with the agent. Under our prior panel rule, *Burger King Corp. v. Pilgrim's Pride Corp.*, 15 F.3d 166, 169 (11th Cir. 1994), we find that *Cannady v. Dugger*, 931 F.2d 752 (11th Cir. 1991), controls and requires that we reverse the ruling on the motion to suppress and remand the case for further proceedings.

**REVERSED AND REMANDED.**

VINSON, District Judge, dissenting:

I respectfully dissent based upon my conclusion that the Supreme Court in, *Davis v. United States*, 512 U.S. 452 (1994), has overruled *Cannady*.