mature and court would accept jurisdiction. West's F.S.A. §§ 39.467(7), 39.469.

Richard D. Ogburn, Panama City, for appellant.

Sandra E. Feinzig, Asst. Legal Counsel, for appellee.

ORDER ON APPELLEE'S MOTION TO DISMISS

PER CURIAM.

On September 21, 1992, the circuit court entered an adjudicatory order which reaffirmed a dependency finding as to the children T.M. and F.M., III, and which terminated the parental rights of their natural father. This order was entered pursuant to section 39.467(7), Florida Statutes (Supp. 1992). A timely notice of appeal was filed by the father on October 16. Subsequently, on November 9 a disposition order was entered in accordance with section 39.469. This order again reaffirmed the dependency adjudications and the termination of the father's parental rights. The children were permanently committed to the Department of Health and Rehabilitative Services for adoption. The father did not file an additional notice of appeal.

The department, as appellee in this cause, now moves for dismissal of the appeal on grounds of lack of jurisdiction. It is appellee's position that the September 21 order was not a final order nor an appealable non-final order. The department contends that the November 9 order was an appealable final order and the father filed no timely notice as to it.

We deny the motion to dismiss. As discussed by this court in the context of delinquency proceedings, the orders authorized by chapter 39 of the Florida Statutes do not always fit neatly into the traditional categories of final and non-final orders. *See C.L.S. v. State,* 586 So.2d 1173 (Fla. 1st DCA1991). We nevertheless regard the September 21 order as sufficiently final on the question of the father's parental rights to be appealable. Even if it were not and only the November 9 order is appealable, we would treat the October 16 notice of appeal as prematurely filed and accept jurisdiction. *Lauda v. H.F. Mason Equipment Corp.,* 407 So.2d 392 (Fla. 3d DCA1981); Fla.R.App.P. 9.110(m).

MOTION DENIED.

JOANOS, C.J., and ZEHMER and BARFIELD, JJ., concur.

Earnest BELL, Appellant,

v.

The STATE of Florida, Appellee.

No. 91–872.

District Court of Appeal of Florida, Third District.

Feb. 9, 1993.

As Amended Feb. 10, 1993.

Rehearing Denied April 6, 1993.

Defendant was convicted in the Circuit Court, Dade County, Arthur L. Rothenberg, J., of leaving the scene of an accident involving a personal injury, and he appealed. The District Court of Appeal held that permitting witness to invoke Fifth Amendment to refuse to answer nonincriminating questions concerning whether witness was facing murder charges impermissibly restricted defendant's right to cross-examination.

Reversed and remanded for new trial.

1. Criminal Law ⚷1170½(1)
Witnesses ⚷297(8.1)

Trial court committed reversible error by restricting defendant's right to cross-examine witness by allowing witness to invoke his Fifth Amendment privilege and refuse to answer questions about whether witness was facing first-degree murder

charge and whether defendant hoped to gain favor with state attorney's office. U.S.C.A. Const.Amend. 5.

2. Witnesses ⟹372(2)

On cross-examination of witness, defense counsel was not restricted to asking witness generally if there were criminal charges pending against him, but was entitled to identify the specific crimes, first-degree murder and attempted first-degree murder, with which witness was charged.

3. Criminal Law ⟹785(8)

Trial court correctly denied defendant's proposed jury instruction which would have advised jury that it could draw adverse inferences about witness' credibility based on his refusal to answer questions because of his invocation of the Fifth Amendment. U.S.C.A. Const.Amend. 5.

Robbins, Tunkey, Ross, Amsel & Raben P.A., and Benjamin S. Waxman, Miami, for appellant.

Robert A. Butterworth, Atty. Gen., and Richard S. Fechter, Asst. Atty. Gen., for appellee.

Before NESBITT, COPE and LEVY, JJ.

PER CURIAM.

Earnest Bell appeals his conviction for leaving the scene of an accident involving a personal injury. The defense asserts evidentiary error with regard to five questions propounded by defense counsel to a prosecution witness.

Bell was accused of driving a car which struck two people as they crossed an intersection. The only witness who could identify Bell was Otis Charles, who, at the time of the trial, was under pending charges for first degree murder and attempted first degree murder. He was being held in the Dade County jail.

[1] Charles testified on direct examination that he saw Bell driving the car. During cross-examination, Bell's attorney asked Charles a series of five questions which Charles refused to answer on the grounds the answers would incriminate him. We hold that the trial court should have required Charles to answer the first two questions because the answers would not have tended to incriminate Charles and the result of Charles' failure to answer unduly restricted Bell's right to cross-examination.

The two questions were:

> Is it a fact, Sir, you are currently incarcerated facing trial for an indictment charging you with the following crime: Murder in the first degree, and attempted first degree murder—isn't that a fact, Sir?
>
> Isn't it a fact, Sir, that you hope to gain favor with the very state attorney's office that is prosecuting this case in order to help yourself with your pending charges of murder and attempted—.

The trial court is to determine on a question by question basis whether a person has properly invoked his Fifth Amendment privilege. *See Suarez v. State,* 481 So.2d 1201, 1208 (Fla.1985), *cert. denied,* 476 U.S. 1178, 106 S.Ct. 2908, 90 L.Ed.2d 994 (1986). In this case the answers to the two questions would not have incriminated Charles. The answer to the first question—whether there were pending first degree murder charges against Charles—was a matter of public record. *Breedlove v. State,* 580 So.2d 605, 608 (Fla.1991); *see Holmes v. State,* 311 So.2d 780, 782 (Fla. 3d DCA 1975), *cert. denied,* 327 So.2d 32 (Fla.1976). The answer to the second question—whether, by testifying, Charles hoped to gain favor with the state attorney's office—would not have subjected Charles to criminal prosecution. *Breedlove v. State,* 580 So.2d at 608.

These two questions were extremely relevant to Charles' credibility and were the proper subject of cross-examination. *See Breedlove v. State,* 580 So.2d at 607–08; *DeAngelis v. State,* 605 So.2d 175 (Fla. 4th DCA 1992); *Williams v. State,* 600 So.2d 509 (Fla. 3d DCA 1992); *Moreno v. State,* 418 So.2d 1223, 1226 (Fla. 3d DCA 1982); *see also Watts v. State,* 450 So.2d 265, 267–68 (Fla. 2d DCA 1984); *Hannah v. State,* 432 So.2d 631, 631–32 (Fla. 3d DCA 1983). Charles should have been required to an-

swer them. *Breedlove; Moreno; Watts,* 450 So.2d at 268. The trial court's restriction of Bell's right to cross-examine Charles as to his potential bias and interest in the case constitutes reversible error. *Moreno; Watts.*

[2] The State argues that the defense was not entitled to ask about the specific crimes with which Charles was charged, but could only ask generally if there were criminal charges pending against him. That contention has been resolved to the contrary in *Breedlove,* 580 So.2d at 608 (citing *Lee v. State,* 318 So.2d 431 (Fla. 4th DCA 1975)). It was permissible for defendant's two above-quoted questions to identify the specific offenses with which defendant was charged.

As to the other three questions, Charles properly asserted his Fifth Amendment privilege because the answers to the questions could have incriminated him and could have subjected him to criminal liability. *See Stewart v. Mussoline,* 487 So.2d 96, 97 (Fla. 3d DCA 1986).

[3] Defendant also contends that the trial court erred by denying a requested jury instruction which would have advised the jury that it could draw adverse inferences about Charles' credibility based on his refusal to answer questions because of the invocation of the Fifth Amendment. The requested instruction was correctly denied. *See United States v. Nunez,* 668 F.2d 1116, 1123 (10th Cir.1981); *United States v. Vandetti,* 623 F.2d 1144, 1148 (6th Cir.1980); *United States v. Johnson,* 488 F.2d 1206, 1211 (1st Cir.1973); *Bowles v. United States,* 439 F.2d 536, 541–42 (D.C.Cir.1970) (en banc), *cert. denied,* 401 U.S. 995, 91 S.Ct. 1240, 28 L.Ed.2d 533 (1971); *Apfel v. State,* 429 So.2d 85, 86–87 (Fla. 5th DCA 1983); *Faver v. State,* 393 So.2d 49, 50 (Fla. 4th DCA 1981).

Reversed and remanded for a new trial.

STATE of Florida, Appellant,

v.

Jose Luis DELASIERRA & Nicholas Rivera, Appellees.

No. 91–3027.

District Court of Appeal of Florida, Third District.

Feb. 9, 1993.

Narcotics defendants moved to suppress evidence seized from residence based on police officer's failure to comply with knock-and-announce rule in executing search warrant. The Circuit Court, Dade County, Thomas S. Wilson, Jr., J., granted defendants' motion to suppress, and state appealed. The District Court of Appeal held that statutory exception to knock-and-announce rule did not require individualized showing that persons inside residence might seek to destroy contraband.

Reversed, vacated and remanded.

Hubbart, J., concurred and filed opinion.

Drugs and Narcotics ⚷189(3)

Police did not have to knock and announce their presence prior to entering residence of suspected drug dealers pursuant to warrant to search for cocaine, in light of officers' prior experience that cocaine is marketed by dealers in quantities readily disposable in sink or toilet; no individualized showing that persons inside residence might seek to destroy cocaine was required in order to invoke statutory exception to knock-and-announce rule. U.S.C.A. Const. Amend. 4; West's F.S.A. § 933.09.

Robert A. Butterworth, Atty. Gen. and Linda S. Katz, Asst. Atty. Gen., for appellant.

Bennett H. Brummer, Public Defender and Rosa C. Figarola, Asst. Public Defender, for appellees.

Before HUBBART, BASKIN and GODERICH, JJ.