

Supreme Court of Florida

No. 65,439

SYE CHRISTOPHER JENKINS, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[March 28, 1985]

EHRlich, J.

We review the decision of the district court in Jenkins v. State, 448 So.2d 1060 (Fla. 4th DCA 1984) because of direct and express conflict with State v. Rhoden, 448 So.2d 1013 (Fla. 1984). We have jurisdiction pursuant to article V, section 3(b)(3), Florida Constitution.

The facts of the case and issues of law are set forth in the district court decision, which we approve except in one regard. The district court held that the defendant, by failure to object contemporaneously, had waived his right to appeal the trial court's failure to enter a written order setting forth justification for retaining jurisdiction over one-third of defendant's sentence. In State v. Snow, No. 64,890 (Fla. Jan. 10, 1985), this Court held that the rule enunciated in Rhoden is applicable to retention of jurisdiction pursuant to section 947.16(3), Florida Statutes (1983). Failure to object at the time of sentencing does not waive the right to appeal the trial court's failure to strictly comply with the requirements of the statute.

The decision of the district court is approved in part and quashed in part and remanded to the trial court for resentencing in compliance with section 947.16(3).

It is so ordered.

BOYD, C.J., ADKINS, OVERTON, ALDERMAN, McDONALD and SHAW, JJ.,
Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED.

Application for Review of the Decision of the District Court
of Appeal - Direct Conflict of Decisions

Fourth District - Case No. 83-978

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