

Supreme Court of Florida

No. 66,137

WILLIAM BROOKS, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[August 29, 1985]

SHAW, J.

These two decisions, both of which are reported as Brooks v. State, 456 So.2d 1305 (Fla. 1st DCA 1984), are before us based on a certified question of great public importance. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

The certified question is the same as that which we addressed in State v. Young, No. 66,257 (Fla. Aug. 29, 1985), and State v. Carney, No. 66,163 (Fla. Aug. 29, 1985). The district court below addressed the question of appellate review of departures from sentencing guidelines where a trial court relies on both permissible and impermissible reasons for the departure. Applying a harmless error analysis, the court concluded that "elimination of these impermissible reasons for deviation would have no effect upon the trial judge's sentencing decision." Brooks v. State, 456 So.2d at 1307. In so holding, the district court anticipated our own holding on the dispositive issue in Albritton v. State, No. 66,169 (Fla. Aug. 29, 1985). We approve the decisions below.

It is so ordered.

BOYD, C.J., ADKINS, OVERTON, ALDERMAN, McDONALD and EHRLICH, 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 - Certified Great Public Importance

First District - Nos. AW-329 and AW-337

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