

Supreme Court of Florida

No. 66,288

STATE OF FLORIDA, Petitioner,

vs.

EDWARD LEE WILLIAMS, Respondent.

[October 17, 1985]

OVERTON, J.

This is a petition to review Williams v. State, 462 So. 2d 23 (Fla. 4th DCA 1984), remanding respondent's case for resentencing because of the trial court's use of prior convictions as the reason for departure from the sentencing guidelines and certifying the following question as a matter of great public importance:

If the scoresheets make provision for prior convictions, can those convictions also constitute clear and convincing reasons for aggravated punishment outside the guidelines?

Id. at 24. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

We answered the question in Hendrix v. State, No. 65,928 (Fla. Aug. 29, 1985), in which we held that, since prior convictions are already factored in as a part of the presumptive guidelines sentence, they may not be used as a clear and convincing reason for departure. See also Deer v. State, No. 66,532 (Fla. Aug. 29, 1985); Gregory v. State, No. 66,317 (Fla. Aug. 29, 1985).

Accordingly, we approve the decision of the district court.

It is so ordered.

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

Fourth District - Case No. 84-124

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