

Supreme Court of Florida

No. 66,789

STATE OF FLORIDA, Petitioner,

v.

ERNESTO SUAREZ, Respondent.

[April 10, 1986]

McDONALD, J.

The Second District Court of Appeal has certified the following question as one of great public importance:

Is the prohibition against consecutive mandatory minimum sentences arising out of one criminal episode as established by Palmer v. State, 438 So.2d 1 (Fla. 1983), operative with respect to a defendant sentenced under the guidelines?

Suarez v. State, 464 So.2d 259, 260 (Fla. 2d DCA 1985).^{*} This Court has jurisdiction pursuant to article V, section 3(b)(4), Florida Constitution. Although in Palmer we stressed the effect of consecutive mandatory minimum sentences upon parole eligibility, such sentences also can markedly restrict the accrual of gain time under the sentencing guidelines. Accordingly, Palmer is still operative under the guidelines. Therefore we answer the certified question in the affirmative and approve the opinion of the district court.

It is so ordered.

BOYD, C.J., and ADKINS, OVERTON, EHRLICH, SHAW and BARKETT, JJ.,
Concur

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

* This Court has previously affirmed petitioner's death sentence in an unrelated case and thus the certified question is moot as to him. See Suarez v. State, No. 65,260 (Fla. Dec. 19, 1985). We choose, however, to answer the question due to its importance to sentencing under the sentencing guidelines.

Application for Review of the Decision of the District Court of
Appeal - Certified Great Public Importance

Second District - Case No. 84-1283

Jim Smith, Attorney General and William I. Munsey, Jr., Assistant
Attorney General, Tampa, Florida,

for Petitioner

James Marion Moorman, Public Defender and John T. Kilcrease, Jr.,
Assistant Public Defender, Tenth Judicial Circuit, Bartow, Florida,

for Respondent