

Supreme Court of Florida

No. 67,276

STATE OF FLORIDA, Petitioner,

vs.

JAMES ERNEST MILLER, Respondent.

[September 17, 1987]

PER CURIAM.

This case is before us on remand from the United States Supreme Court following its decision on certiorari review of our earlier judgment. In State v. Miller, 488 So.2d 820 (Fla. 1986), this Court held that Miller should be sentenced pursuant to the guidelines in effect at the time of sentencing as opposed to the guidelines in effect at the time the crime was committed. The Supreme Court reversed the judgment, holding that our ruling violated the ex post facto clause of article I of the United States Constitution. Miller v. Florida, No. 86-5344 (U.S. June 9, 1987). Therefore, we vacate Miller's sentence and remand the case to the circuit court with directions to resentence Miller pursuant to the sentencing guidelines which were in effect at the time the offense was committed.

It is so ordered.

MCDONALD, C.J., and OVERTON, EHRLICH, SHAW, GRIMES and KOGAN, 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. 84-2188

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