

Supreme Court of Florida

No. 67,453

STATE OF FLORIDA, Petitioner,

vs.

DONALD E. HURST, Respondent.

[May 8, 1986]

PER CURIAM.

We review Hurst v. State, 474 So.2d 280 (Fla. 5th DCA 1985), because of express conflict with State v. Jackson, 478 So.2d 1054 (Fla. 1985). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

The district court ruled that the trial judge erred by applying the committee notes to the sentencing guidelines in effect at the time of sentencing, not those in effect at the time the offenses were committed. We disagree and, on the authority of Jackson, quash the district court decision and remand for proceedings not inconsistent with this opinion.

It is so ordered.

BOYD, C.J., and ADKINS, OVERTON and McDONALD, JJ., Concur
BARKETT, J., Concur specially with an opinion, in which EHRLICH
and SHAW, JJ., Concur

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

BARKETT, J., concurring specially.

I concur only because this case is controlled by our decision in State v. Jackson, 478 So.2d 1054 (Fla. 1985). Justice Ehrlich's dissenting opinion in that case represents, in my view, the correct position on this issue.

EHRLICH and SHAW, JJ., Concur

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

Fifth District - Case No. 84-1575

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