

# Supreme Court of Florida

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No. 67,468

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STATE OF FLORIDA, Petitioner,

vs.

JORGE SUEIRO, Respondent.

[November 12, 1987]

PER CURIAM.

On certiorari review,<sup>\*</sup> the United States Supreme Court has vacated our decision in State v. Sueiro, 487 So.2d 1071 (Fla. 1986), and remanded the case for further consideration in light of Miller v. Florida, 107 S. Ct. 2446 (1987). Previously, on the authority of State v. Jackson, 478 So.2d 1054 (Fla. 1985), we quashed that portion of Sueiro v. State, 471 So.2d 1317 (Fla. 3d DCA 1985), holding that sentencing guidelines in effect at the time of sentencing could not be used. We have since receded from Jackson to the extent that it conflicts with Miller. Wilkerson v. State, No. 68,181 (Fla. Oct. 8, 1987). We now reinstate the district court decision below, vacate Sueiro's sentence, and remand to the circuit court for resentencing using the guidelines in effect at the time of the offense.

It is so ordered.

MCDONALD, C.J., and OVERTON, EHRLICH, SHAW, BARKETT, GRIMES  
and KOGAN, JJ., Concur

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<sup>\*</sup> Sueiro v. Florida, 107 S. Ct. 3203 (1987).

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

Third District - Case No. 84-1235

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for Petitioner

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for Respondent