

Supreme Court of Florida

No. 68,181

TERRY JOE WILKERSON, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[October 8, 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 Wilkerson v. State, 494 So.2d 210 (Fla. 1986), this Court followed State v. Jackson, 478 So.2d 1054 (Fla. 1985), and held that Wilkerson 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 vacated the judgment and remanded the case for further consideration in light of Miller v. Florida, 107 S.Ct. 2446 (1987), which held that utilizing the guidelines in effect at the time of sentencing violated the ex post facto clause of article I of the United States Constitution. Therefore, we vacate Wilkerson's sentence and remand the case to the circuit court with directions to resentence Wilkerson pursuant to the sentencing guidelines which

* 107 S.Ct. 3206 (1987).

were in effect at the time the offense was committed. We also
recede from State v. Jackson to the extent that it conflicts
with Miller v. Florida.

It is so ordered.

MCDONALD, C.J., and OVERTON, EHRLICH, SHAW, BARKETT, 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 - Certified Great Public Importance

First District - Case No. BE-452

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