

Supreme Court of Florida

No. 68,181

TERRY JOE WILKERSON, Petitioner,

v.

STATE OF FLORIDA, Respondent.

[September 18, 1986]

ADKINS, J.

The district court in Wilkerson v. State, 480 So.2d 213 (Fla. 1st DCA 1985), applied our decision of State v. Jackson, 478 So.2d 1054 (Fla. 1985), and upheld petitioner's sentencing according to the guidelines in effect at the time of sentencing rather than those in force at the date of the original offense. In so doing, however, the court certified the following question as one of great public importance:

WHETHER ALL SENTENCING GUIDELINES
AMENDMENTS ARE TO BE CONSIDERED PROCEDURAL
IN NATURE SO THAT THE GUIDELINES AS MOST
RECENTLY AMENDED SHALL BE APPLIED AT THE
TIME OF SENTENCING WITHOUT REGARD TO THE EX
POST FACTO DOCTRINE.

480 So.2d at 215. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

In Jackson, we found no ex post facto violation in imposing the guidelines as amended subsequent to the original offense, noting that "the presumptive sentence established by the guidelines does not change the statutory limits of the sentence imposed for a particular offense." 478 So.2d at 1056. We

therefore answer the certified question in the affirmative and affirm the opinion here under review.

It is so ordered.

McDONALD, C.J., and BOYD, OVERTON, EHRLICH, SHAW and BARKETT, 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

Michael E. Allen, Public Defender, and P. Douglas Brinkmeyer,
Assistant Public Defender, Second Judicial Circuit, Tallahassee,
Florida,

for Petitioner

Jim Smith, Attorney General, and Royall P. Terry, Jr., Assistant
Attorney General, Tallahassee, Florida,

for Respondent