

Supreme Court of Florida

No. 70,631

JOHNNY LEE FRYSON, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[November 10, 1988]

KOGAN, J.

We have for review Fryson v. State, 506 So.2d 1117 (Fla. 1st DCA 1987), in which the district court certified the following as a question of great public importance:

DOES A TRIAL COURT'S STATEMENT, MADE AT THE TIME OF DEPARTURE FROM THE SENTENCING GUIDELINES, THAT IT WOULD DEPART FOR ANY ONE OF THE REASONS GIVEN, REGARDLESS OF WHETHER BOTH VALID AND INVALID REASONS ARE FOUND ON REVIEW, SATISFY THE STANDARDS SET FORTH IN ALBRITTON V. STATE?

Id. at 1120. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

We answered the certified question in the negative in Griffis v. State, 509 So.2d 1104 (Fla. 1987). Because the district court correctly found both valid and invalid reasons, we disapprove the decision below as to this issue and direct the district court to remand to the trial court for resentencing. We

No. 70,631

JOHNNY LEE FRYSON, Petitioner,

Application for Review of the Decision of the District Court
of Appeal - Certified Great Public Importance

First District - Case No. BO-43

Michael E. Allen, Public Defender and P. Douglas Brinkmeyer,
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Florida,

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