

Supreme Court of Florida

No. 70,713

MICHAEL FLOURNOY, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[February 11, 1988]

PER CURIAM.

We have jurisdiction pursuant to article V, section 3(b)(4) of the Florida Constitution, based upon the district court's certification of the following question:

May the quantity of drugs involved in a crime be a proper reason to support departure from the sentencing guidelines?

Flournoy v. State, 507 So.2d 668, 671 (Fla. 1st DCA 1987).

We recently answered this question in the negative in Atwaters v. State, No. 69,555 (Fla. Jan. 28, 1988). Accordingly, we disapprove the decision below as to this issue and direct the district court to remand to the trial court for resentencing.

It is so ordered.

McDONALD, C.J., and OVERTON, ERHLICH, 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. BI-269

J. Craig Williams of Williams and Stapp, P.A., Jacksonville, Florida,
for Petitioner

Robert A. Butterowrth, Attorney General and Royall P. Terry, Jr.,
Assistant Attorney General, Tallahassee, Florida,
for Respondent