

Supreme Court of Florida

No. 71,193

STATE OF FLORIDA, Petitioner,

vs.

TIMOTHY LEE JOHNSON, Respondent.

[March 31, 1988]

OVERTON, J.

In accordance with our decision in State v. Van Kooten, No. 71,170 (Fla. Mar. 31, 1988), we approve the decision of the Fifth District Court of Appeal in Johnson v. State, 511 So. 2d 748 (Fla. 5th DCA 1987).*

It is so ordered.

McDONALD, C.J., and EHRLICH, SHAW, BARKETT and KOGAN, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

* We have jurisdiction based on conflict with Francis v. State, 487 So. 2d 348 (Fla. 2d DCA 1986). Art. V, § 3(b)(3), Fla. Const.

Application for Review of the Decision of the District Court
of Appeal - Direct Conflict of Decisions

Fifth District - Case No. 86-1502

Robert A. Butterworth, Attorney General and Sean Daly, Assistant
Attorney General, Daytona Beach, Florida,

for Petitioner

James B. Gibson, Public Defender, and Brynn Newton, Assistant
Public Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Respondent