

Supreme Court of Florida

No. 71,472

DAVID CAUTHEN, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[March 31, 1988]

OVERTON, J.

The First District Court of Appeal, in Cauthen v. State, 514 So. 2d 75 (Fla. 1st DCA 1987), certified the following as a question of great public importance:

MAY THE QUANTITY OF DRUGS INVOLVED IN A CRIME
BE A PROPER REASON TO SUPPORT DEPARTURE FROM
THE SENTENCING GUIDELINES?

Id. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const. We recently answered the same question in the negative in Atwaters v. State, No. 69,555 (Fla. Jan. 28, 1988). Accordingly, we quash the decision of the First District in the instant case and remand for reconsideration consistent with our decision in Atwaters.

It is so ordered.

McDONALD, C.J., and 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. BS-95

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

for Petitioner

Robert A. Butterworth, Attorney General and Elizabeth C. Masters,
Assistant Attorney General, Tallahassee, Florida,

for Respondent