

Supreme Court of Florida

No. 71,894

STATE OF FLORIDA, Petitioner,

vs.

CARLOS BRAXTON, Respondent.

[May 19, 1988]

OVERTON, J.

The Second District Court of Appeal, in Braxton v. State, 519 So. 2d 60 (Fla. 2d DCA 1988), certified the following question as one of great public importance:

May the quantity of drugs involved in possession or delivery of cocaine be used as a proper reason to support a valid departure from the sentencing guidelines?

Id. at 61. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const. We answered the same question in the negative in State v. Koopman, 519 So. 2d 613 (Fla. 1988), relying on our decision in Atwaters v. State, 519 So. 2d 611 (Fla. 1988). Accordingly, we approve the decision of the Second District in the instant case.

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

Second District - Case No. 86-2334

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