

Supreme Court of Florida

No. 73,841

STATE OF FLORIDA, Petitioner,

vs .

JAMES MILES, etc., Respondent.

[March 15, 1990]

BARKETT, J.

We have before us for review Miles v. State, 536 So.2d 262 (Fla. 3d DCA 1988), which is in express and direct conflict with the Fifth District Court of Appeal's decision of Franklin v. State, 526 So.2d 159 (Fla. 5th DCA 1988), approved on other grounds, 545 So.2d 851 (Fla. 1989). We have jurisdiction pursuant to article V, section 3(b)(3) of the Florida Constitution.

The state raises only one issue for our review. That issue is identical to the one we decide today in State v. Watts,

No. 74,117 (Fla. Mar. 15, 1990). For the reasons we state in Watts, we approve the decision of the district court below.

It is so ordered.

EHRlich, C.J., OVERTON, MCDONALD, SHAW, 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 - Direct Conflict of Decisions

Third District - Case No. 87-461
(Dade County)

Robert A. Butterworth, Attorney General; Michael J.
Neimand, Assistant Attorney General and Debora J. Turner,
Assistant Attorney General, Miami, Florida,

for Petitioner

Bennett H. Brummer, Public Defender and Elliot H. Scherker,
Assistant Public Defender, Miami, Florida,

for Respondent