

Supreme Court of Florida

No. 74,251

STATE OF FLORIDA,
Petitioner,
vs.
ROBERT L. JOHNSON,
Respondent.

[May 17, 1990]

PER CURIAM.

We accepted for review Johnson v. State, 543 So.2d 1294 (Fla. 2d DCA 1989), based on apparent conflict with Carawan v. State, 515 So.2d 161 (Fla. 1987). Upon reviewing the briefs, we have determined that no conflict exists and that jurisdiction improvidently was granted. Accordingly, the petition for review is dismissed.

It is so ordered.

VERTON, McDONALD, BARKETT, GRIMES and KOGAN, JJ., Concur
SHAW, J., Dissents with an opinion, in which EHRlich, C.J.,
Concurs
NO MOTION FOR REHEARING WILL BE ENTERTAINED BY THE COURT.

SHAW, J., dissenting.

I dissent for the same reason I dissented in State v. Hatten, No. 74,169 (Fla. May 10, 1990). The district court here held that convictions for sale and simple possession cannot be based on a single act. In my opinion, this conflicts with Carawan v. State, 515 So.2d 161 (Fla. 1987), in that sale and simple possession contain different statutory elements and address different evils.

EHRlich, C.J., Concur

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

Second District - Case No. 88-00275
(Pinellas County)

Robert A. Butterworth, Attorney General, and Brenda S. Taylor,
Assistant Attorney General, Tampa, Florida,

for Petitioner

James Marion Moorman, Public Defender and Brad Permar, Assistant
Public Defender, Tenth Judicial Circuit, Clearwater, Florida,

for Respondent