

Supreme Court of Florida

ORIGINAL

No. 76,016

LUCIOUS WILLIAMS,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[February 6, 1992]

PER CURIAM.

We review Williams v. State, 568 So. 2d 1276-77 (Fla. 2d DCA 1990), in which the court certified the following as a question of great public importance:

DOES A SECOND VIOLATION OF PROBATION
CONSTITUTE A VALID BASIS FOR A DEPARTURE
SENTENCE BEYOND THE ONE-CELL DEPARTURE
PROVIDED IN THE SENTENCING GUIDELINES?

Our jurisdiction is based on article V, section 3(b)(4) of the Florida Constitution.

Though phrased in a different manner, this question has been answered negatively in our recent opinion in Williams v. State, No. 75,919 (Fla. Feb. 6, 1992). We quash the decision below to the extent that it conflicts with that opinion and remand the case for further consideration. In the event the district court of appeal concludes that all of the other reasons given for departure are invalid, Lucious Williams should be resentenced consistent with the dictates of the Williams opinion cited above.

It is so ordered.

SHAW, C.J. and OVERTON, McDONALD, BARKETT, GRIMES, KOGAN and HARDING, 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. 87-02878

(Hillsborough County)

James Marion Moorman, Public Defender and Megan Olson, Assistant
Public Defender, Tenth Judicial Circuit, Bartow, Florida,

for Petitioner

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Assistant Attorney General, Tampa, Florida,

for Respondent