

Supreme Court of Florida

ORIGINAL

No. 77,434

PATRICK CARTER, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[October 10, 1991]

PER CURIAM.

We have for review Carter v. State, 571 So.2d 520 (Fla. 4th DCA 1990), which is in direct conflict with Lewis v. State, 574 So.2d 245 (Fla. 2d DCA 1991), and Scott v. State, 574 So.2d 247 (Fla. 2d DCA 1991). We have jurisdiction pursuant to article V, section 3(b)(3) of the Florida Constitution.

In Carter, the Fourth District Court of Appeal approved the assessment of legal constraint points for each offense committed while under legal constraint. We recently held in Flowers v. State, No. 76,854 (Fla. Oct. 3, 1991), that legal constraint points are to be assessed once in calculating sentencing scoresheets for offenses committed while on legal constraint. Accordingly, we quash the decision below and remand for reconsideration consistent with our opinion in Flowers.

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 - Class of Constitutional Officers

Fourth District - Case No. 90-0828

(Martin County)

Richard L. Jorandby, Public Defender and Tanja Ostapoff,
Assistant Public Defender, Fifteenth Judicial Circuit, West Palm
Beach, Florida,

for Petitioner

Robert A. Butterworth, Attorney General; Joan Fowler, Senior
Assistant Attorney General, Chief, Criminal Law; and John
Tiedemann, Assistant Attorney General, West Palm Beach, Florida,

for Respondent