

Supreme Court of Florida

ORIGINAL

No. 77,856

STATE OF FLORIDA, Petitioner,

vs.

JOSEPH T. BARNHART, Respondent.

[February 20, 1992]

OVERTON, J.

The State of Florida petitions this Court to review Barnhart v. State, 578 So. 2d 507 (Fla. 1st DCA 1991), in which the First District Court of Appeal reversed Barnhart's sentencing as a habitual offender. The district court certified the following question as being of great public importance:

WHETHER SECTION 775.084(1)(a)(1), FLORIDA STATUTES (SUPP. 1988), WHICH DEFINES HABITUAL FELONY OFFENDERS AS THOSE WHO HAVE "PREVIOUSLY BEEN CONVICTED OF TWO OR MORE FELONIES,"

REQUIRES THAT EACH OF THE FELONIES BE COMMITTED
AFTER CONVICTION FOR THE IMMEDIATELY PREVIOUS
OFFENSE.

Id. at 507.¹

We answered this same question in the negative in our decision in State v. Barnes, No. 77,751 (Fla. Feb. 20, 1992). Accordingly, we quash the decision reversing Barnhart's sentencing as a habitual offender and remand this case for further proceedings consistent with our opinion in Barnes.

It is so ordered.

SHAW, C.J. and McDONALD, BARKETT, GRIMES, KOGAN and HARDING, JJ.,
concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED.

¹ We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

Application for Review of the Decision of the District Court of
Appeal - Certified Great Public Importance

First District - Case No. 89-3105

(Alachua County)

Robert A. Butterworth, Attorney General and Bradley R. Bischoff,
Assistant Attorney General, Tallahassee, Florida,

for Petitioner

Nancy A. Daniels, Public Defender and Kathleen Stover, Assistant
Public Defender, Second Judicial Circuit, Tallahassee, Florida,

for Respondent