Supreme Court of Florida

No. 78,613

ISAIAH PERKINS, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[January 21, 1993]

OVERTON, J.

We have for review Perkins v. State, 583 So. 2d 1103 (Fla. 1st DCA 1991), in which the district court held that Perkins' sentence as a habitual violent felony offender under section 775.084, Florida Statutes (1989), did not violate constitutional due process requirements, the protection against double jeopardy,

or the constitutional prohibition against ex post facto laws.[1] We recently approved a similar holding in <u>Tillman v. State</u>, No. 78,715 (Fla. Nov. 19, 1992). Consequently, we approve the district court's holding in this case.

Nevertheless, based on our decision in <u>State v. Johnson</u>, Nos. 79,150 & 79,204 (Fla. Jan. 14, 1993), we must remand this cause for resentencing. The record reflects that Perkins was sentenced as a habitual violent felony offender under an amendment to section 775.084 contained in chapter *89-280*, Laws of Florida. In <u>Johnson</u>, we determined that chapter 89-280 violated the single subject provision of article III, section **6**, of the Florida Constitution. As such, Perkins' sentence **as** a habitual violent felony offender is unconstitutional. Accordingly, we remand this cause for resentencing in accordance with our decision in <u>Johnson</u>.

It is *so* ordered.

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

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

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

Application for Review of the Decision of the District Court of
Appeal - Statutory Validity

First District - Case No. 90-2169

(Suwannee County)

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