

Supreme Court of Florida

ORIGINAL

No. 79,054

JAMES FRANKLIN BAKER, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[June 4, 1992]

PER CURIAM.

We have for review Baker v. State, 591 So.2d 959 (Fla. 2d DCA 1991), in which the Second District Court of Appeal affirmed the trial court's holding that a life sentence is mandatory under the habitual offender statute¹ when a defendant is habitualized

¹ § 775.084, Fla. Stat. (1989).

on a first-degree felony. We accept jurisdiction² and remand the case for reconsideration in light of our decision in Burdick v. State, 594 So.2d 267 (Fla. 1992).

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.

² Art. V, § 3(b)(3), and Jollie v. State, 405 So.2d 418 (Fla. 1981).

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

Second District - Case No. 90-01426

(Sarasota County)

James Marion Moorman, Public Defender and John S. Lynch,
Assistant Public Defender, Tenth Judicial Circuit, Bartow,
Florida,

for Petitioner

Robert A. Butterworth, Attorney General and William I. Munsey,
Jr., Assistant Attorney General, Tampa, Florida,

for Respondent