

# Supreme Court of Florida

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No. 79,572  
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**ORIGINAL**

ARRICES MERRIWEATHER,  
Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[November 25, 1992]

OVERTON, J.

We have for review Merriweather v. State, 593 So. 2d 1218 (Fla. 1st DCA 1992), in which the district court affirmed Merriweather's sentencing as a habitual violent felony offender and certified the following question as being of great public importance:

WHETHER THE HABITUAL VIOLENT FELONY OFFENDER PROVISIONS OF SUBSECTION 775.084(1)(b), FLORIDA STATUTES (1989), VIOLATES CONSTITUTIONAL RIGHTS CONCERNING DUE PROCESS, DOUBLE JEOPARDY, OR EX POST FACTO LAWS.

Id. at 1218-19.<sup>1</sup>

We answer the question in the negative and approve the decision of the district court, in accordance with our decisions in Tillman v. State, No. 78,715 (Fla. Nov. 19, 1992); Ross v. State, 601 So. 2d 1190 (Fla. 1992); Reynolds v. Cochran, 138 So. 2d 500 (Fla. 1962); Washington v. Maya, 91 So. 2d 621 (Fla. 1956); and Cross v. State, 96 Fla. 768, 119 So. 380 (1928).

It is so ordered.

McDONALD, SHAW, GRIMES and HARDING, JJ., concur,  
KOGAN, J., dissents with an opinion, in which BARKETT, C.J.,  
concur.

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

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

KOGAN, J., dissenting.

I dissent on the basis of my dissenting opinion in Tillman v. State, No. 78,715 (Fla. Nov. 19, 1992). The petitioner has only been convicted of one violent crime and therefore cannot be a habitual violent felony offender.

BARKETT, C.J., concurs.

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

First District - Case No. 91-813

(Duval County)

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