

Supreme Court of Florida

ORIGINAL

No. 79,689

GREGORY MCKNIGHT,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[March 25, 1993]

PER CURIAM.

We review McKnight v. State, 595 SO. 2d 1059 (Fla. 2d DCA 1992), because of its conflict with State v. Kendrick, 596 So. 2d 1153 (Fla. 5th DCA 1992), review dismissed, No. 79,953 (Fla. Dec. 17, 1992). We have jurisdiction under article V, section 3(b)(3) of the Florida Constitution.

We hold that the trial judge has the discretion to place an habitual felony offender on probation. As the basis for our conclusion, we adopt the rationale of the en banc opinion in King v. State, 597 So. 2d 309 (Fla. 2d DCA), review denied, 602 So. 2d 942 (Fla. 1992). We do not address the other points raised by petitioner.

We disapprove Kendrick to the extent that it conflicts with our opinion, and we approve the decision below.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, SHAW, 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 - Direct Conflict of Decisions

Second District - Case No. 90-03255

(Hillsborough 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 Davis G. Anderson
and Peggy Quince, Assistant Attorneys General, Tampa, Florida,

for Respondent