

Supreme Court of Florida

ORIGINAL

Na. 79,877

THOMAS GILMORE, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[January 21, 1993]

OVERTON, J.

We have for review Gilmore v. State, 597 So. 2d 374 (Fla. 4th DCA 1992), in which the district court addressed the same question we recently answered in State v. Johnson, Nos. 79,150 & 79,204 (Fla. Jan. 14, 1993).¹ In accordance with our decision in Johnson, we quash, in part, the decision of the district court in

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

the instant case, Nevertheless, we approve Gilmore's sentence. The record in this case reflects that none of the amendments to section 775.084, Florida Statutes, contained in chapter 89-280 affected Gilrnore's sentence. Consequently, we approve the result of the district court's decision because Gilmore's sentence is not altered by our decision in Johnson, We decline to address the other issue raised by Gilmore.

It is so ordered.

BARKETT, C.J., and 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 - Certified Great Public Importance

Fourth District - Case No. 91-1707

(St. Lucie County)

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