

Supreme Court of Florida

ORIGINAL

No. 79,995

KENNETH L. MAEWEATHER,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[February 11, 1993]

OVERTON, J.

We have for review Maeweather v. State, 599 So. 2d 733 (Flo. 1st DCA 1992), in which the district court upheld Maeweather's conviction of possession of a firearm by a convicted felon and his sentencing as a habitual offender. In upholding Maeweather's conviction and sentence, the district court certified the same questions we answered in the negative in

Gayman v. State, Nos. 78,547 & 79,602 (Fla. Feb. 11, 1993), and Tillman v. State, 17 Fla. L. Weekly S707 (Fla. Nov. 19, 1992).¹

In accordance with our answers to the questions in Gayman and Tillman, we approve the decision of the district court. The other issues raised by Maeweather were not discussed by the district court and we choose not to address them.

It is so ordered.

MCDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.
BARKETT, C.J., concurs specially with an opinion.

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

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

BARKETT, J., concurring specially.

I agree with the majority's resolution of the Tillman issue because Maeweather has been convicted of at least two prior violent felonies, See Tillman v. State, 17 Fla. L. Weekly S707 (Fla. Nov. 19, 1992) (Kogan, J., dissenting).

I also concur with the majority's affirmative answer to the third question certified by the district court, although I do not find that it is the same question that was certified in Gayman v. State, Nos. 78,547 & 79,602 (Fla. Feb. 11, 1993). The question in this case is whether double jeopardy is violated by Maeweather's conviction for possession of a firearm by a convicted felon and subsequent sentence as a violent habitual felony offender. Unlike Gayman, I do not find that Maeweather was receiving two enhanced sentences for the same conduct, Accordingly, I concur with the majority's resolution of this issue.

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

First District - Case No. 91-925

(Columbia County)

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