

Supreme Court of Florida

ORIGINAL

No. 80,168

WILLIE FRANK THOMAS, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[April 15, 1993]

OVERTON, J.

We have before us Thomas v. State, 601 So. 2d 542 (Fla. 2d DCR 1992), in which the district court addressed the same question we recently answered in State v. Johnson, Nos. 79,150 & 79,204 (Fla. Apr. 8, 1993). The district court in its order on rehearing reaffirmed Thomas's sentence, citing cases pending in this Court that were subsequently disposed of by our decision in

Johnson.' In accordance with our decision in Johnson, we quash, in part, the decision of the district court in the instant case. Nevertheless, we approve Thomas' sentence. The record reflects that none of the amendments to section 775.084, Florida Statutes, contained in chapter 89-280 affected Thomas' sentence. Consequently, we approve the result of the district court's decision because Thomas' sentence is not altered by our decision in Johnson. We decline to address the other issues raised by Thamas.

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.

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

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

Second District - Case No. 91-01630

(Collier County)

Willie Frank Thomas, Pro Se, Arcadia, Florida,

for Petitioner

Robert A. Butterworth, Attorney General; and Michele Taylor,
Assistant Attorney General, Tampa, Florida,

for Respondent