

Supreme Court of Florida

No. 80,768

ORIGINAL

CLARENCE BROOKS, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[October 28, 1993]

SHAW, J.

We have for review Brooks v. State, 605 So. 2d 874 (Fla. 1st DCA 1992), in which the district court certified the following question:

MAY CONSECUTIVE ENHANCED SENTENCES BE IMPOSED UNDER SECTION 775.084, FLORIDA STATUTES, FOR CRIMES GROWING OUT OF A SINGLE CRIMINAL EPISODE?

We have jurisdiction. Art. V, § 3(b)(4), Fla. Const. We answer in the negative and quash Brooks.

Upon returning to the parking lot of a local store, Barbara Rahilly found defendant Brooks inside her van. After a confrontation, Brooks exited Rahilly's van and entered another van. While pulling away, Brooks demanded Rahilly's purse, which she refused to surrender. Brooks fled the parking lot, and was subsequently arrested and convicted of attempted grand theft and attempted robbery. The court imposed consecutive ten year sentences pursuant to the habitual violent felony offender statute, section 775.084(4)(b), Florida Statutes (1989). The district court affirmed, but certified the present question.¹

We have since addressed this issue in Hale v. State, No. 80,242 (Fla. Oct. 14, 1993), wherein we quashed the district court decision affirming imposition of two consecutive habitual violent felony offender sentences for crimes arising from a single criminal episode. We noted that the habitual offender statute constitutes an enhancement statute and that because the original statutory provisions governing the crimes of which Hale was convicted contain no provision authorizing the imposed punishment his sentences cannot be served consecutively, under the reasoning of Daniels v. State, 595 So. 2d 952 (Fla. 1992).

¹ We decline to address the other issue raised by Brooks.

Accordingly, we answer the certified question in the negative, quash the decision of the district court, and remand with instructions that Brooks' enhanced sentences be imposed to run concurrently.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, 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
First District - Case No. 91-87

(Clay County)

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