

Supreme Court of Florida

No. 81,274

ALEX D. GOODWIN,
Petitioner,
vs.
STATE OF FLORIDA,
Respondent.

ORIGINAL

[February 3, 1994]

PER CURIAM.

We have for review Goodwin v. State, 610 So. 2d 31 (Fla. 4th DCA 1992), which certified the following question of great public importance:

Whether a defendant can be convicted and sentenced for UBAL manslaughter and vehicular homicide arising out of one death?

We have jurisdiction. Art. V, § 3(b)(4), Fla. Const. Based on our opinion in Sirmons v. State, No. 80,545 (Fla. Feb. 3, 1994), we find that the two offenses at issue here are aggravated forms of a single underlying offense distinguished only by degree factors. Multiple punishments thus are not allowed.

§ 775.021(4)(b)2., Fla. Stat. (1989). See also Houser v. State, 474 So. 2d 1193 (Fla. 1985).

For that reason, we answer the certified question in the negative, quash the decision below to the extent it is inconsistent with this opinion, and remand for further proceedings consistent with our views here and with Sirmons. We disapprove the opinion in Murphy v. State, 578 So. 2d 410 (Fla. 4th DCA 1991), to the extent it is inconsistent with this opinion. We decline to address the other issues raised by the parties, which lie beyond the scope of the certified question.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, SHAW, KOGAN and HARDING, JJ., concur.
GRIMES, J., concurs with an opinion, in which SHAW and HARDING, JJ., concur.

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

GRIMES, J., concurring.

I dissented to our decision in Sirmons v. State, No. 80,545 (Fla. Feb. 3, 1994). However, I believe that the Legislature could not have intended that a defendant could be convicted of two crimes of homicide for killing a single person.
SHAW and HARDING, JJ., concur.

Application for Review of the Decision of the District Court of
Appeal - Certified Great Public Importance
Fourth District - Case No. 91-1710

(Broward County)

Richard L. Jorandby, Public Defender and Paul E. Petillo,
Assistant Public Defender, Fifteenth Judicial Circuit, West Palm
Beach, Florida,

for Petitioner

Robert A. Butterworth, Attorney General; Joan Fowler, Senior
Assistant Attorney General, Chief, Criminal Law, and Joseph A.
Tringali, Assistant Attorney General, West Palm Beach, Florida,

for Respondent