

Supreme Court of Florida

ORIGINAL

No. 81,592

WALLACE L. WILLIAMS, JR., Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[November 24, 1993]

PER CURIAM.

We have for review Williams v. State, 614 So. 2d 1108 (Fla. 1st DCA 1992), in which the district court certified the following question as one of great public importance: "Does article I, section 17 of the Florida Constitution permit an appellate court to undertake proportionality review of a non-death penalty sentence?" Id. at 1109. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const. We approve in part and quash in part the district court's decision.

While we find no error in the district court's affirmance of petitioner's conviction or its reversal of his sentence with a remand for resentencing, we quash that portion of the district

court's decision which held that there can be no "proportionality review" of criminal penalties other than death under article I, section 17 of the Florida Constitution. 614 So. 2d at 1109. On the authority of Hale v. State, 18 Fla. L. Weekly S535 (Fla. Oct. 14, 1993), we hold that there can be such review in a proper case. In view of the fact that the district court reversed petitioner's sentence and remanded for resentencing, we find it unnecessary to reach petitioner's argument that his sentence constituted "cruel or unusual punishment" under article I, section 17. We remand this case to the district court for further proceedings consistent with this opinion.

It is so ordered.

BARKETT, C.J., and OVERTON, 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
First District - Case No. 91-1995

(Clay County)

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