

Supreme Court of Florida

ORIGINAL

No. 82,006

WILLIAM C. SCHERWITZ,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[October 13, 1994]

PER CURIAM.

We have for review Scherwitz v. State, 618 So. 2d 793 (Fla. 5th DCA 1993), because of conflict with Graham v. State, 559 So. 2d 343 (Fla. 4th DCA 1990), on the issue of whether in resentencing a defendant after revocation of probation or community control, a court has authority to revise a guidelines scoresheet to include prior convictions that were mistakenly omitted from the original through no fault of the defendant. We have jurisdiction pursuant to article V, section 3(b)(3) of the Florida Constitution.

In Roberts v. State, No. 81,182 (Fla. Oct. 13, 1994), this Court has rejected the rationale of Graham and resolved the issue in the instant case adversely to Scherwitz's position. Therefore, we approve the decision below.

It is so ordered.

GRIMES, C.J., OVERTON, SHAW and HARDING, JJ., and McDONALD, Senior Justice, concur.
KOGAN, J., dissents with an opinion.

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

KOGAN, J., dissenting,

I dissent for the reasons stated in my dissent in Roberts v. State, No. 81,182 (Fla. Oct. 13, 1994).

Application for Review of the Decision of the District Court of
Appeal - Direct Conflict of Decisions
Fifth District - Case No. 92-2372

(St. Johns County)

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