

Supreme Court of Florida

No. 85,857

STATE OF FLORIDA,

Petitioner,

vs.

CLYDE JEFFERSON,

Respondent.

[January 4, 1996]

SHAW, J.

We have for review Jefferson v. State, 657 So. 2d 14 (Fla. 4th DCA 1995), based on conflict with State v. Wilson, 658 So. 2d 521 (Fla. 1995). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

The parties agree that Jefferson was sentenced in violation of Ashley v. State, 614 So. 2d 486 (Fla. 1993). We quash Jefferson and remand for resentencing. Jefferson should be given

the opportunity to withdraw his plea and proceed to trial if he so desires. Should he plead nolo or guilty, the court may in its discretion sentence him under the guidelines or impose an habitual offender term if the dictates of section 775.084, Florida Statutes (1993), and Ashley are met.

It is so ordered.

GRIMES, C.J., and OVERTON, KOGAN, HARDING, WELLS and ANSTEAD, 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 Direct Conflict of Decisions
Fourth District - Case No. 94-1591

(St. Lucie County)

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