

Supreme Court of Florida

ROLAND DOBSON,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

No. **87,356**

[September 11, 1997]

PER CURIAM.

We have for review Dobson v. State, 665 So. 2d **386** (Fla. 5th DCA 1996). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const. We have exercised our discretion to review this decision because it summarily affirmed petitioner's habitual offender sentence with a citation to Younn v. State, **663 So. 2d 1376** (Fla. 5th DCA 1995). Because we quashed Young to the extent that it held that a trial judge had the authority under section **775.08401** to sua sponte initiate habitual offender proceedings against an eligible defendant, we must also quash the Fifth District's per curiam affirmance in Dobson where the district court relied solely on its earlier opinion in Young. See Younn v. State, **22 Fla. L. Weekly S384** (Fla. July 3, 1997).

It is so ordered.

KOGAN, C.J., and OVERTON, SHAW and ANSTEAD, JJ., concur.
GRIMES, HARDING and WELLS, JJ., dissent.

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 - Direct Conflict of Decisions

Fifth District - Case Nos. **94-1063;**
94-1334

(Volusia County)

James B. Gibson, Public Defender and Susan A. Fagan, Assistant Public Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Petitioner

Robert A. Butterworth, Attorney General and Ann M. Childs, Assistant Attorney General, Daytona Beach, Florida,

for Respondent