

Supreme Court of Florida

No. 87,858

EUGENE R. O'NEAL,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

[November 14, 1996]

WELLS, J.

We have for review the decision of the district court in State v. O'Neal, 673 So. 2d 881 (Fla. 2d DCA 1996), in which the court expressly relied on Jennings v. State, 667 So. 2d 442 (Fla. 1st DCA 1996). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

This Court recently approved the district court's decision in Jennings. Jennings v. State, No. 87,587 (Fla. October 31, 1996). Accordingly, we approve the district court's decision below.

It is so ordered.

KOGAN, C.J., and OVERTON, SHAW, GRIMES, HARDING 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 - Statutory Validity
Second District - Case No. 95-02732

(Polk County)

James Marion Moorman, Public Defender and Wayne S. Melnick,
Assistant Public Defender, Tenth Judicial Circuit, Bartow,
Florida,

for Petitioner

Robert A. Butterworth, Attorney General; Robert J. Krauss, Bureau
Chief - Criminal Appeals, Senior Assistant Attorney General, and
Erica M. Raffel, Assistant Attorney General, Tampa, Florida,

for Respondent