

Supreme Court of Florida

MICHAEL ALAN MCEACHERN,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

No. 89,859

[November 20, 1997]

SHAW, J.

We have for review State v. McEachern, 22 Fla. L. Weekly D323 (Fla. 5th DCA Jan, 31, 1997), wherein the court certified the following question:

IS A SENTENCE ENTIRELY
SUSPENDED ON THE
CONDITION THAT THE
DEFENDANTSUCCESSFULLY
COMPLETE COMMUNITY
CONTROL AN ILLEGAL
SENTENCE AS
CONSTITUTING AN
UNAUTHORIZED
SENTENCING ALTERNATIVE
WHICH MAY BE APPEALED
BY THE STATE AND
VACATED ON DIRECT
APPEAL?

We have jurisdiction. Art. V, § 3(b)(4), Fla.

Const. We quash McEachern based on State v. Powell, No. 89,964 (Fla. Nov. 20, 1997), wherein we held that as long as there exists a valid reason for a downward departure, a trial court may impose a true split sentence in which the entire period of incarceration is suspended.

It is so ordered.

KOGAN, C.J., and OVERTON, HARDING, WELLS and ANSTEAD, JJ., and GRIMES, Senior Justice, 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

Fifth District - Case No. 96-467

(Orange County)

James B. Gibson, Public Defender and Dee Ball, 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