

COPY

Supreme Court of Florida

ALVIN COLEMAN,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

No. 92,134

[June 12, 1998]

PER CURIAM.

We have for review the decision in Coleman v. State, 702 So. 2d 307 (Fla. 5th DCA 1997), which certified conflict with the opinion in Galloway v. State, 680 So. 2d 616 (Fla. 4th DCA 1996), concerning the issue of whether additional sentencing points for carrying or possessing a firearm during the commission of a crime may be added to a defendant's sentencing score where the defendant is convicted of carrying a concealed weapon or possession of a firearm by a convicted felon. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

Recently, we resolved this conflict in White v. State, No. 89,998 (Fla. June 12, 1998), wherein we held that it is error for a trial court to assess additional sentencing points for possessing a firearm where the sole underlying crime is carrying a concealed firearm or possession of a firearm by a convicted felon. In other words, rule 3.702(d)(12) of the Florida Rules of Criminal Procedure and section 921.0014, Florida Statutes (1993), do not contemplate the addition of sentencing points for carrying or

possessing a firearm where the carrying or possession of a firearm is the essential element of the underlying offense. In so holding, we approved the Fourth District's decision in Galloway.

Therefore, in accordance with our decision in White, we quash the decision below.

It is so ordered.

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

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

Fifth District - Case No. 97-1787

(Orange County)

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