

STATE OF FLORIDA,
Petitioner,
vs.
P.A., JR., a child,
Respondent.
No. 92,344

[October 15, 1998]

SHAW, J.

We have for review P.A. v. State, 23 Fla. L. Weekly D429 (Fla. 1st DCA Jan. 30, 1998), wherein the First District Court of Appeal certified the following two questions:

1. DOES SECTION 924.051(4), FLORIDA STATUTES (SUPP. 1996), APPLY IN JUVENILE DELINQUENCY PROCEEDINGS?
2. DOES THE TRIAL JUDGE, ACTING AFTER A DISPOSITION HEARING AND BASED ON SPECIFIC REASONS, HAVE AUTHORITY TO REJECT THE DEPARTMENT'S COMMUNITY CONTROL RECOMMENDATION WITHOUT REMANDING THE CASE TO THE DEPARTMENT FOR AN ALTERNATIVE RECOMMENDATION?

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

We have since addressed these questions in State v. T.M.B., 23 Fla. L. Weekly (Fla. Apr. 2, 1998) (question 1), and State v. E.D.P., No. 92,345 (Fla. Oct. 8, 1998)(question 2). We answered the first question in the negative in T.M.B. and the second question in the affirmative in E.D.P. In accordance with our decisions in T.M.B. and E.D.P., we approve P.A. on the first issue, quash the district court's decision on the second issue, and remand this case with directions to reinstate the sentence of the trial court.

It is so ordered.

HARDING, C.J., and OVERTON, J., concur.

WELLS, J., concurs in part and dissents in part with an opinion.

ANSTEAD, J., concurs in part and dissents in part with an opinion.

PARIENTE, J., dissents with an opinion, in which KOGAN, J., concurs.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF FILED,
DETERMINED.

WELLS, J., concurring and dissenting.

I dissent for the reasons stated in my opinion dissenting to the denial of rehearing in State v. T.M.B., 23 Fla. L. Weekly S429, S430 (Fla. Aug. 27, 1998), as to the first question.

I concur in the answer to the second question based upon State v. E.D.P., 92,345 (Fla. Oct. 8, 1998), and would quash the district court's decision on this issue.

ANSTEAD, J., concurring in part and dissenting in part.

I agree with the majority's answer to question one but disagree with the answer to question two.

PARIENTE, J., dissenting.

I dissent as to the first certified question for the reasons stated by Justice Wells in his opinion dissenting from the denial of rehearing in State v. T.M.B., 23 Fla. L. Weekly S429, S430 (Fla. Aug. 27, 1998).

I dissent as to the second certified question for the reasons stated by Justice Anstead in his dissenting opinion in State v. E.D.P., No. 92,345 (Fla. Oct. 8, 1998).

KOGAN, J., concurs.

Application for Review of the Decision of the District Court of Appeal - Certified Great Public
Importance

First District - Case No. 97-2956

(Duval County)

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