

# Supreme Court of Florida

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No. SC93145

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**JOHN WESLEY LINDER,**  
Petitioner,

vs.

**STATE OF FLORIDA,**  
Respondent.

[March 23, 2000]

PER CURIAM.

We have for review Linder v. State, 711 So. 2d 1340 (Fla. 3d DCA 1998), in which the Third District Court of Appeal affirmed John Wesley Linder's violent career criminal sentence based on its prior decision in Higgs v. State, 695 So. 2d 872 (Fla. 3d DCA 1997). In so affirming, the Linder court certified conflict with the Second District Court of Appeal's decision in Thompson v. State, 708 So.2d 315 (Fla. 2d DCA 1998). We have jurisdiction. See Art. V, § 3(b)(4), Fla. Const. Based on our decision in State v. Thompson, 25 Fla. L. Weekly S1 (Fla. Dec. 22,

1999), we quash the decision below and remand for resentencing in accordance with the valid laws in effect on December 30, 1995, the date on which Linder committed the underlying offense in this case.<sup>1</sup> See Thompson, 25 Fla. L. Weekly at S3 (remanding for resentencing in accordance with the valid laws in effect at the time the defendant committed her offenses).

It is so ordered.

HARDING, C.J., and SHAW, ANSTEAD, PARIENTE and LEWIS, JJ., 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

Third District - Case No. 3D97-597

( Dade County)

Bennet H. Brummer, Public Defender, and Marti Rothenberg, Assistant Public  
Defender, Eleventh Judicial Circuit, Miami, Florida,

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<sup>1</sup> We note that Linder has standing to raise a single subject rule challenge to chapter 95-182, Laws of Florida, even assuming the window period for raising such a challenge closed on October 1, 1996, as determined by the Fourth District Court of Appeal in Salters v. State, 731 So. 2d 826, 826 (Fla. 4th DCA), review granted, No. 95,663 (Fla. Dec. 3, 1999). Further, even though Linder failed to raise a single subject rule challenge in the trial court, we find that such challenge may be properly addressed in this case for the first time on appeal. Cf. Heggs v. State, 25 Fla. L. Weekly S137, S138, S140 n.4 (Fla. Feb. 17, 2000); Nelson v. State, 24 Fla. L. Weekly S250, S251 (Fla. May 27, 1999), cert. denied, 120 S. Ct. 950 (2000); State v. Johnson, 616 So. 2d 1, 3-4 (Fla. 1993).

for Petitioner

Robert A. Butterworth, Attorney General, and Fredericka Sands, Assistant  
Attorney General, Fort Lauderdale, Florida,

for Respondent