

Supreme Court of Florida

GARY L. DOLES,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

No. 93,232

[October 29, 1998]

PER CURIAM.

We have for review the decision in Doles v. State, 710 So. 2d 769 (Fla. 1st DCA 1998), which certified conflict with the opinions in State v. Walton, 693 So. 2d 135 (Fla. 4th DCA 1997), approved, 23 Fla. L. Weekly S402 (Fla. July 16, 1998), and Galloway v. State, 680 So. 2d 616 (Fla. 4th DCA 1998), 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 possession of a firearm by a convicted felon. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

We recently resolved this conflict in

White v. State, 714 So. 2d 440 (Fla. 1998), wherein we held that it is error for a trial court to assess additional sentencing points for carrying or 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, additional sentencing points for carrying or possessing a firearm during the commission of a crime may not be assessed against a defendant's sentencing score where the carrying or possessing of a firearm is the essential element of the underlying offense. Id. at 443-44. In so holding, we approved Galloway and quashed the decision in White v. State, 689 So. 2d 371 (Fla. 2d DCA 1997).

Therefore, in accordance with our decision in White, we quash the district court's decision in Doles.

It is so ordered.

HARDING, C.J., and OVERTON,
SHAW, KOGAN, ANSTEAD and
PARIENTE, 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

First District - No. 97-895
(Bay County)

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