

Supreme Court of Florida

No. SC94460

ERIC WEISS,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[June 22, 2000]

PER CURIAM.

We have for review the decision in Weiss v. State, 720 So. 2d 1113 (Fla. 3d DCA 1998), on the basis of express and direct conflict. We have jurisdiction. See art. V, § 3(b)(3), Fla. Const. For the reasons stated in Maddox v. State, 25 Fla. L. Weekly S367, S373 (Fla. May 11, 2000), we approve the Third District's decision.¹

¹In Maddox v. State, 25 Fla. L. Weekly S367, S373 (Fla. May 11, 2000), we found that the failure to file timely reasons for imposing an upward departure sentence does not constitute fundamental error "if the defendant was not hindered in his or her efforts to challenge the grounds for imposing the departure sentence on direct appeal." Accordingly, we do not reach the question of whether the Third District correctly concluded that section 921.0016(1)(c), Florida Statutes (1995), and Florida Rule of Criminal Procedure 3.703(d)(28)(A) require the written reasons for departure to be filed within seven days after the written sentence is filed rather than seven days after the oral

It is so ordered.

HARDING, C.J., and SHAW, WELLS, ANSTEAD, PARIENTE, LEWIS and
QUINCE, JJ., 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 -
Direct Conflict

Third District - Case No. 3D97-2805

(Dade County)

Bennett H. Brummer, Public Defender and Lisa Walsh, Assistant Public Defender,
Eleventh Judicial Circuit, Miami, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, Michael J. Neimand, Bureau Chief, Roberta
G. Mandel, and Christine E. Zahralban, Assistant Attorneys General, Miami, Florida,

for Respondent

pronouncement of sentence at the sentencing hearing.