

Supreme Court of Florida

No. SC95144

JOSE MANUEL GONZALEZ,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[March 23, 2000]

PER CURIAM.

We have for review Gonzalez v. State, 724 So. 2d 1271 (Fla. 3d DCA 1999), in which the Third District Court of Appeal affirmed Jose Manuel Gonzalez' violent career criminal sentences and 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), in which we held unconstitutional chapter 95-182, Laws of Florida, as violative of

the single subject rule, we quash the decision below and remand for resentencing in accordance with the valid laws in effect on November 22, 1995, the date on which Gonzalez committed the underlying offenses in this case.¹ 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, LEWIS and QUINCE, 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. 3D97-2822

(Dade County)

Bennet H. Brummer, Public Defender, and Susan M. Froix, Assistant Public
Defender, Eleventh Judicial Circuit, Miami, Florida,

¹ We note that Gonzalez 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 Gonzalez 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, Michael J. Neimand, Bureau Chief,
Assistant Attorney General, and Christine E. Zahralban, Assistant Attorney
General, Fort Lauderdale, Florida,

for Respondent