

Supreme Court of Florida

No. SC95407

CARLOS D. GARCIA,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[June 1, 2000]

PER CURIAM.

We have for review Garcia v. State, 728 So. 2d 1220 (Fla. 5th DCA 1999), wherein the Fifth District Court of Appeal cited as controlling authority Maddox v. State, 708 So. 2d 617 (Fla. 5th DCA 1998), which was then pending on review in this Court. We have jurisdiction. See Art. V, § 3(b)(3), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981). Based on our decision in Maddox v. State, Nos. SC92805, SC93000, SC93207, SC93966 (Fla. May 11, 2000), we determine that Garcia may properly raise a single subject rule challenge to chapter 95-184, Laws of Florida, for

the first time on appeal. See also Heggs v. State, 25 Fla. L. Weekly S137, S140 n. 4 (Fla. Feb. 17, 2000); cf. Nelson v. State, 748 So. 2d 237, 241-42 (Fla. 1999), cert. denied, 120 S. Ct. 950 (2000); State v. Johnson, 616 So. 2d 1, 3-4 (Fla. 1993).

Further, based on our decision in Heggs in which we held chapter 95-184 to be unconstitutional as violative of article III, section 6 of the Florida Constitution, we quash the district court's affirmance of Garcia's sentence and remand for resentencing in accordance with the sentencing guidelines in effect before the relevant amendments made in chapter 95-184 became effective.¹

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 -
Direct Conflict

Fifth District - Case No. 5D98-1066

(St. Johns County)

James B. Gibson, Public Defender, and Nancy Ryan, Assistant Public Defender, Seventh

¹ Garcia has standing to challenge chapter 95-184 on single subject rule grounds. See Trapp v. State, No. SC96074 (Fla. June 1, 2000).

Judicial Circuit, Daytona Beach, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, Belle B. Schumann, Wesley Heidt and Kellie
A. Nielan, Assistant Attorney General, Daytona Beach, Florida,

for Respondent