

Supreme Court of Florida

No. SC95427

OSVALDO VALDES,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[May 25, 2000]

PER CURIAM.

We have for review Valdes v. State, 728 So. 2d 1225 (Fla. 3d DCA 1999), in which the Third District Court of Appeal held chapter 95-184, Laws of Florida, to be constitutional. We recently reached a contrary result in Heggs v. State, 25 Fla. L. Weekly S137 (Fla. Feb. 17, 2000). We have jurisdiction. See Art. V, § 3(b)(3), Fla Const. Based on our decision in Heggs, we quash the decision below and remand for resentencing in accordance with the valid laws in effect on July 21, 1996, the date on

which Osvaldo Valdes committed the underlying offenses in this case.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

Third District - Case No. 3D97-2896

(Dade County)

Bennett H. Brummer, Public Defender, and Manuel Alvarez, Assistant Public Defender,
Eleventh Judicial Circuit, Miami, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, Michael J. Neimand, Bureau Chief, Criminal
Appellate Division, and Consuelo Maingot, Assistant Attorney General, Ft. Lauderdale,
Florida,

for Respondent

¹ We note that Valdes has standing to raise a single subject rule challenge to chapter 95-184, 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 Bortel v. State, 743 So. 2d 595, 597 (Fla. 4th DCA 1999). Further, even though Valdes 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. See Heggs v. State, 25 Fla. L. Weekly S137-S138, 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).