

Supreme Court of Florida

No. SC95705

STEPHEN J. KLARICH, JR.,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[June 15, 2000]

PER CURIAM.

We have for review Klarich v. State, 730 So. 2d 419 (Fla. 5th DCA 1999), a decision of the Fifth District Court of Appeal that cited as controlling authority Maddox v. State, 708 So. 2d 617 (Fla. 5th DCA 1998), approved in part, disapproved in part, 25 Fla. L. Weekly S367 (Fla. May 11, 2000). We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.; Jollie v. State, 405 So. 2d 418, 420 (Fla. 1981). For the reasons expressed in our opinion in Maddox v. State, 25 Fla. L. Weekly S367 (Fla. May 11, 2000), we approve the decision below and find that the unpreserved

sentencing errors in this case do not constitute fundamental error.

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

Fifth District - Case No. 5D98-172

(Volusia County)

James B. Gibson, Public Defender, and Susan A. Fagan, Assistant Public Defender,
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for Petitioner

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

for Respondent