

Supreme Court of Florida

No. SC95995

DEREK MAXWELL,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[January 25, 2001]

LEWIS, J.

We have for review Maxwell v. State, 732 So. 2d 1209 (Fla. 5th DCA 1999), which expressly and directly conflicts with the opinion in State v. Cotton, 728 So. 2d 251 (Fla. 2d DCA 1998), quashed, 769 So. 2d 345 (Fla. 2000). We have jurisdiction. See Art. V, § 3(b)(3), Fla. Const.

Maxwell received a fifteen-year prison sentence pursuant to the Prison Releasee Reoffender Act¹ (the “Act”). He challenges his sentence on several grounds,

¹See § 775.082(8), Fla. Stat. (1997).

all of which have been addressed by this Court in other opinions. See McKnight v. State, 769 So. 2d 1039 (Fla. 2000) (holding that a defendant has the right both to present evidence to prove that the defendant does not qualify for sentencing under the Act, and to challenge the State’s evidence regarding the defendant’s eligibility for sentencing as a prison releasee reoffender); Grant v. State, 770 So. 2d 655 (Fla. 2000) (rejecting an ex post facto challenge to the Act, and holding that the Act neither violates the single subject rule for legislation, nor does it violate principles of equal protection or subject defendants sentenced under it to double jeopardy); Ellis v. State, 762 So. 2d 912 (Fla. 2000) (recognizing that, “[a]s to notice, publication in the Laws of Florida or the Florida Statutes gives all citizens constructive notice of the consequences of their actions”) (quoting State v. Beasley, 580 So. 2d 139, 142 (Fla. 1991)); State v. Cotton, 769 So. 2d 345 (Fla. 2000) (holding that the Act does not violate separation of powers, is not void for vagueness, and does not violate principles of due process by allowing a “victim veto” precluding application of the Act). Accordingly, the decision in Maxwell is approved to the extent it is consistent with Cotton,² Ellis, McKnight, and Grant.

It is so ordered.

²The district court, in affirming Maxwell’s sentence, cites to Speed v. State, 732 So. 2d 17 (Fla. 5th DCA), review granted, 743 So. 2d 15 (Fla. 1999). In Cotton, we disapproved the decision in Speed to the extent that it was inconsistent with our opinion in Cotton.

WELLS, C.J., and SHAW, HARDING, ANSTEAD and PARIENTE, JJ, concur.
QUINCE, J., dissents with an opinion.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION, AND IF
FILED, DETERMINED.

QUINCE, J., dissenting.

I dissent for the reasons stated in my dissent in State v. Cotton, 769 So. 2d 345,
358-59 (Fla. 2000).

Application for Review of the Decision of the District Court of Appeal -
Direct Conflict

Fifth District - Case No. 5D98-3460

(Volusia County)

James B. Gibson, Public Defender, and Dee Ball, Assistant Public Defender, Seventh
Judicial Circuit, Daytona Beach, Florida,

for Petitioner

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