

Supreme Court of Florida

No. SC96012

KEVIN COYNE,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[March 23, 2000]

WELLS, J.

We have for review Coyne v. State, 732 So. 2d 455 (Fla. 4th DCA 1999), in which the Fourth District Court of Appeal affirmed the trial court in a per curiam decision without a written opinion, citing Harbaugh v. State, 711 So. 2d 77, 83 (Fla. 4th DCA 1998). We accepted jurisdiction because Harbaugh was pending in this Court upon a certified question of great public importance as to whether, when a defendant requests that the jury determine the existence of prior DUI convictions in a felony DUI trial, the bifurcated procedure of State v. Rodriguez, 575 So. 2d 1262 (Fla. 1991), should be amended in light of United States v.

Gaudin, 515 U.S. 506 (1995). See Jollie v. State, 405 So. 2d 418 (Fla. 1981). We have jurisdiction pursuant to article V, section 3(b)(3), Florida Constitution.

In Harbaugh, we answered the certified question in the affirmative and remanded to the district court for further proceedings in accord with our opinion. State v. Harbaugh, SC93037 (Fla. March 9, 2000). Accordingly, we quash the decision of the Fourth District in Coyne to the extent that it is inconsistent with our opinion in Harbaugh, and we remand for further proceedings in accord with Harbaugh.

It is so ordered.

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

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

SHAW, J., dissenting.

I respectfully dissent based on the reasoning contained in my dissenting opinion in State v. Harbaugh, No. SC93037 (Fla. Mar. 9, 2000).

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

Fourth District - Case No. 4D98-3245

(Palm Beach County)

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