

IN THE SUPREME COURT OF FLORIDA

JASON A. YEGGE,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

Case No. SC15-770

ON DISCRETIONARY REVIEW FROM THE
THE DISTRICT COURT OF APPEAL,
SECOND DISTRICT OF FLORIDA

JURISDICTIONAL BRIEF OF RESPONDENT

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STATEMENT OF THE CASE AND FACTS

Respondent relies on the facts set forth in Yegge v. State, - So. 3d -, 2015 WL 1650293, 2D12-4193 (Fla. 2d DCA 2015).¹

After Petitioner pled guilty to armed burglary, he was sentenced to probation as a youthful offender. After Petitioner admitted a substantive violation of probation, his probation and youthful offender designation were revoked and he was sentenced to a ten year mandatory minimum prison term pursuant to §775.087, Florida Statutes (2002). Petitioner's postconviction challenge to the revocation of youthful offender status was denied. The revocation of youthful offender status was reversed but the ten year mandatory minimum prison term was affirmed in Yegge v. State, 88 So. 3d 1058 (Fla. 2d DCA 2012). On remand, Petitioner was resentenced as a youthful offender to the ten year mandatory minimum prison term.

On appeal, Petitioner asserted that the ten year mandatory minimum prison term was illegal because sentencing enhancements did not apply to youthful offender sentences. The Second District Court of Appeal affirmed Petitioner's sentence, holding that trial courts are required to continue a youthful offender's status after a substantive violation of probation but are not

¹ See Reaves v. State, 485 So. 2d 829, 830 n. 3 (Fla. 1986) (holding that the only relevant facts are those contained within the "four corners" of the decision).

precluded from imposing an enhanced sentence under the Youthful Offender Act. Yegge, 2015 WL 1650293 at *2. The Second District recognized that the Fourth District Court of Appeal expressed a contrary view in Blacker v. State, 49 So. 3d 785, 789 (Fla. 4th DCA 2010), by holding that drug trafficking mandatory minimum sentences could not be imposed on youthful offenders who substantively violate probation. Id. at *4. The Second District also noted that the Fourth District later held in Goldwire v. State, 73 So. 3d 844, 846 (Fla. 4th DCA 2011), that trial courts have discretion to impose non-youthful offender sentences, such as minimum mandatory sentences, after substantive violations of probation. Id. The Second District agreed with the analysis in Goldwire and certified conflict with Blacker.

SUMMARY OF ARGUMENT

The Second District's decision in Yegge certified conflict with the Fourth District's decision in Blacker. While the decisions may be distinguished because they considered different mandatory minimum sentencing enhancement statutes, the decisions may be interpreted as conflicting on the broader issue of whether mandatory minimum sentencing enhancements generally may be applied to youthful offenders after revocation of probation for a substantive violation. The Second District's decision in Yegge does not expressly and directly conflict with the Fifth District's decision in Christian, because the language in Christian that conflicts with the decision in Yegge was merely dictum. The Second District's decision in Yegge also does not expressly and directly conflict with this Court's decision in Arnette, because Arnette did not address the application of mandatory minimum sentencing enhancements to youthful offenders after revocation for substantive violations.

ARGUMENT

SHOULD THIS COURT EXERCISE ITS DISCRETIONARY JURISDICTION TO RESOLVE THE CERTIFIED CONFLICT BETWEEN YEGGE V. STATE AND BLACKER V. STATE? (RESTATED)

Petitioner asserts that this Court has jurisdiction to review Yegge v. State, - So. 3d -, 2015 WL 1650293, 2D12-4193 (Fla. 2d DCA 2015), because it certified conflict with Blacker v. State, 49 So. 3d 785 (Fla. 4th DCA 2010). Petitioner also asserts that Yegge conflicts with Christian v. State, 84 So. 3d 437 (Fla. 5th DCA 2012) and State v. Arnette, 604 So. 2d 482 (Fla. 1992).

Petitioner invokes the discretionary jurisdiction of this Court under Fla. R. App. P. 9.030(a)(2)(A)(vi) and Art. V, §3(b)(4), Fla. Const., which authorize review of a decision of a district court of appeal that that is certified to be in direct conflict with a decision of another district court of appeal.

Petitioner apparently also invokes the discretionary jurisdiction of this Court under Fla. R. App. P. 9.030(a)(2)(A)(iv) and Art. V, §3(b)(3), Fla. Const., which authorize review of a decision of a district court of appeal that expressly and directly conflicts with a decision on the same question of law by another district court or by this Court.

The Second District Court of Appeal held that the trial court could not revoke Petitioner's youthful offender status after a substantive violation of probation but could impose a mandatory minimum prison sentence pursuant to §775.087, Florida Statutes

(2002). Yegge, 2015 WL 1650293 at *2. In Blacker, the Fourth District Court of Appeal held that the trial court could not revoke the defendant's youthful offender status after a substantive violation of probation and also could not impose mandatory minimum prison sentences pursuant to §893.135, Florida Statutes. 49 So. 3d at 789. Yegge and Blacker may be distinguished because they considered different mandatory minimum sentencing enhancement statutes. Indeed, a later decision by the Fourth District supports this interpretation. Goldwire v. State, 73 So. 3d 844, 846 (Fla. 4th DCA 2011), held that the trial court could impose a mandatory minimum prison sentence pursuant to §775.087, Florida Statutes, on a youthful offender after a substantive violation of probation. However, Yegge and Blacker may be interpreted as conflicting on the broader issue of whether mandatory minimum sentencing enhancements generally may be applied to youthful offenders after revocation of probation for a substantive violation.

In Christian, 84 So. 3d at 444 n. 7, the Fifth District Court of Appeal disagreed with the holding in Goldwire that the trial court could impose a mandatory minimum prison sentence pursuant to §775.087, Florida Statutes, on a youthful offender after a substantive violation of probation. However, the issue under consideration in Christian was whether a youthful offender's new criminal conduct constituted a substantive violation of

probation if he was not charged with the new crime. 84 So. 3d at 439-41. Moreover, the defendant's sentence after revocation of his probation did not include any mandatory minimum sentencing enhancement. Id. at 439. Hence, the language disagreeing with Goldwire was merely dictum. Therefore, Yegge does not expressly and directly conflict with Christian. See Jenkins v. State, 385 So. 2d 1356, 1359 (Fla. 1980) ("[I]t is conflict of decisions, not conflict of opinions or reasons that supplies jurisdiction for review by certiorari.") (citation omitted).

In Arnette, this Court held that youthful offenders maintain youthful offender status even after violating a condition of community control. 604 So. 2d at 484. However, Arnette did not address the application of mandatory minimum sentencing enhancements to youthful offenders after revocation for substantive violations. Petitioner argues that Yegge conflicts with Arnette because the reasoning in both cases conflict. Again, "it is conflict of decisions, not conflict of opinions or reasons that supplies jurisdiction for review by certiorari." Jenkins, 385 So. 2d at 1359 (citation omitted). Therefore, Yegge does not expressly and directly conflict with Arnette.

The Second District's decision in Yegge certified conflict with the Fourth District's decision in Blacker. While the decisions may be distinguished because they considered different mandatory minimum sentencing enhancement statutes, the decisions

may be interpreted as conflicting on the broader issue of whether mandatory minimum sentencing enhancements generally may be applied to youthful offenders after revocation of probation for a substantive violation. The Second District's decision in Yegge does not expressly and directly conflict with the Fifth District's decision in Christian, because the language in Christian that conflicts with the decision in Yegge was merely dictum. The Second District's decision in Yegge also does not expressly and directly conflict with this Court's decision in Arnette, because Arnette did not address the application of mandatory minimum sentencing enhancements to youthful offenders after revocation for substantive violations.

CONCLUSION

Based on the foregoing discussion, Respondent respectfully requests that this Honorable Court exercise its discretionary jurisdiction accordingly.

CERTIFICATE OF SERVICE

I certify that the foregoing document has been furnished to Alisa Smith, Public Defender's Office, Polk County Courthouse, P.O. Box 9000 - Drawer PD, Bartow, FL 33831, asmith@pd10.state.fl.us, cclark@pd10.state.fl.us, appealfilings@pd10.state.fl.us, by e-mail on May 12, 2015.

CERTIFICATE OF COMPLIANCE

I certify that this brief was computer generated using Courier New 12 point font.

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