Supreme Court of Florida

No. SC00-1917

ERMON LEE LANE,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[April 12, 2001]

PER CURIAM.

This matter is before the Court for review on an issue certified to be of great public importance. See art. V, § 3(b)(4), Fla. Const. The District Court certified the following question:

> SHOULD THE DECISION IN PARKER V. STATE, 408 SO. 2D 1037 (FLA. 1982), BE OVERRULED IN FAVOR OF THE ANALYSIS OF THE EVIDENTIARY REQUIREMENTS FOR PROOF OF CONVICTED FELON STATUS IN FIREARM VIOLATION CASES ESTABLISHED FOR FEDERAL COURTS IN OLD CHIEF V. UNITED STATES, 519 U.S. 172, 117 S. CT. 644, 136 L. ED. 2D 574 (1997)?

Lane v. State, 706 So. 2d 94 (Fla. 3d DCA 1998). The petitioner contends, and the State concedes, that the outcome of this case is controlled by our decision in Brown v. State, 719 So. 2d 882 (Fla. 1998), wherein we answered the same question in the affirmative and held that the defendant was entitled to a new trial. The State concedes, and we agree, that the same outcome is mandated here.[1]

Accordingly, we answer the certified question in the affirmative in accord with Brown, quash the district court decision, and remand for further proceedings consistent herewith.

It is so ordered.

SHAW, ANSTEAD, PARIENTE, LEWIS and QUINCE, JJ., concur.
HARDING, J., concurs in part and dissents in part with an opinion, in which WELLS, C.J., concurs.

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

HARDING, J., concurring in part, dissenting in part.

I concur in part and dissent in part for the reasons stated in my concurring in part and dissenting in part decision in Brown v. State, 719 So. 2d 882 (Fla. 1998). I agree with the procedure adopted by the majority. However, as I stated in Brown,

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[1]Review of this case was delayed when counsel for the petitioner failed to seek review on petitioner's behalf and belated review was later sought and granted through a petition for writ of habeas corpus.

this change in procedure should be applied prospectively. See Armstrong v. State, 642 So. 2d 730, 738 (Fla. 1994). The trial in Lane's case was held prior to our decision in Brown, and, therefore, the new procedure should not apply.

WELLS, C.J., concurs.

Application for Review of the Decision of the District Court of Appeal - Certified Great Public Importance

Third District - Case No. 3D96-2325

Bennett H. Brummer, Public Defender, and Marti Rothenberg, Assistant Public Defender, Eleventh Judicial Circuit, Miami, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, and Frederick Sands, Assistant Attorney General, Miami, Florida,

for Respondent