

Supreme Court of Florida

No. SC03-456

MARC JEAN PAUL,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[September 1, 2005]

PER CURIAM.

We have for review the decision in Paul v. State, 838 So. 2d 687 (Fla. 3d DCA 2003), which certified conflict with the decisions in Murphy v. State, 773 So. 2d 1174 (Fla. 2d DCA 2000), and Mortimer v. State, 770 So. 2d 743 (Fla. 4th DCA 2000). We accept jurisdiction, see art. V, § 3(b)(4), Fla. Const. Based upon our independent review, as well as the State's concession of error, we summarily quash the decision of the Third District Court of Appeal and remand for reconsideration in light of our decision in Banks v. State, 887 So. 2d 1191 (Fla. 2004), to determine whether the defendant's sentence could have been imposed under the 1994 sentencing guidelines.

It is so ordered.

PARIENTE, C.J., and WELLS, ANSTEAD, LEWIS, QUINCE, CANTERO, and BELL, 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 - Certified Direct Conflict of Decisions

Third District - Case No. 3D02-2664

(Dade County)

Bennett H. Brummer, Public Defender and Andrew Stanton, Assistant Public Defender, Eleventh Judicial Circuit, Miami, Florida,

for Petitioner

Charles J. Crist, Jr., Attorney General, Tallahassee, Florida and Richard L. Polin, Bureau Chief, Criminal Appeals, Office of Attorney General, Miami, Florida,

for Respondent