

Supreme Court of Florida

No. 65,633

BETTY REESE, Petitioner,

v.

STATE OF FLORIDA, Respondent.

[July 11, 1985]

ADKINS J.

The Fourth District Court of Appeal certified to this Court the following question:

If the state has the burden to prove beyond a reasonable doubt that a defendant was sane at the time of the offense when the defense of insanity has been raised, is the giving of the present insanity instruction, as set forth in standard jury instruction 3.04(b), along with the general reasonable doubt instruction sufficient, notwithstanding the defendant having specifically requested the court to instruct the jury that the state must prove beyond a reasonable doubt that the defendant was sane at the time of the offense?

Reese v. State, 452 So.2d 1079, 1079 (Fla. 4th DCA 1984). We have answered this question in Yohn v. State, No. 65,504 (Fla. July 11, 1985). Therefore, on its authority, we quash the decision of the Fourth District Court of Appeal in this case and remand with instructions to further remand to the trial court for new trial.

It is so ordered.

BOYD, C.J., McDONALD and SHAW, JJ., Concur
ALDERMAN, J., Dissents with an opinion, in which EHRLICH, J.,
Concurs
OVERTON, J., Dissents

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

ALDERMAN, J., dissenting.

I dissent for the reasons stated in my dissent in Yohn v. State, No. 65,504 (Fla. July 11, 1985), and would approve the decision of the Fourth District.

EHRlich, J., Concur

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

Fourth District - Case No. 82-2015

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