

Supreme Court of Florida

No. 67,153

JAMES HENRY SMITH, Petitioner,

v.

STATE OF FLORIDA, Respondent.

[April 10, 1986]

McDONALD, J.

We have for review State v. Smith, 470 So.2d 764 (Fla. 5th DCA 1985), which the Fifth District Court of Appeal certified as being in direct conflict with Whitehead v. State, 450 So.2d 545 (Fla. 3d DCA 1984). This Court has jurisdiction pursuant to article V, section 3(b)(4), Florida Constitution. We approve Smith on the authority of State v. Whitehead, 472 So.2d 730 (Fla. 1985), wherein we approved in part and quashed in part the district court's opinion and in which we held that both imposing a three-year mandatory minimum sentence and reclassifying the second-degree murder conviction from a first-degree felony to a life felony did not constitute impermissible double enhancement.

It is so ordered.

BOYD, C.J., and ADKINS, OVERTON, EHRLICH, SHAW and BARKETT, 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

Fifth District - Case No. 84-1545

James B. Gibson, Public Defender and Christopher S. Quarles,
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for Petitioner

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