

Supreme Court of Florida

No. 67,406

STATE OF FLORIDA, Petitioner,

v.

JOHNNIE LEE KNOX, III, Respondent.

[October 2, 1986]

PER CURIAM.

We have for review Knox v. State, 471 So.2d 59 (Fla. 4th DCA 1985), in which the district court certified to us the same question it had previously certified as being of great public importance in Marshall v. State, 473 So.2d 688, 689 (Fla. 4th DCA 1984). We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

The question we are asked to answer is the following:

May the harmless error doctrine be applied to cases in which a prosecutor has violated a defendant's Fifth Amendment rights under Griffin v. California, 380 U.S. 609, 85 S.Ct. 1229, 14 L.Ed.2d 106 (1965)?

471 So.2d at 60.

As in State v. Marshall, 476 So.2d 150, 151 (Fla. 1985), we answer this question in the affirmative.

Accordingly, the decision of the district court of appeal is quashed, and we remand this cause to the Fourth District Court of Appeal to determine whether the comment was harmless under the standards set forth in State v. DiGuilio, No. 65,490 (Fla. July 17, 1986) and Crawford v. State, No. 66,808 (Fla. July 17, 1986).

It is so ordered.

MCDONALD, C.J., and BOYD, OVERTON, SHAW and BARKETT, JJ., Concur
EHRlich, J., Concur specially with an opinion, in which BARKETT,
J., Concur
ADKINS, J., Dissents

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

EHRlich, J., specially concurring.

I concur only because this case is controlled by State v. DiGuilio, No. 65,490 (Fla. July 17, 1986) but I still subscribe to the views expressed in the dissent therein.

BARkETT, J., Conkurs

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

Fourth District - Case No. 84-1007

Jim Smith, Attorney General and Sarah B. Mayer, Assistant
Attorney General, West Palm Beach, Florida,

for Petitioner

Richard L. Jorandby, Public Defender, Fifteenth Judicial Circuit,
and Louis G. Carres, Assistant Public Defender, West Palm Beach,
Florida,

for Respondent