

Supreme Court of Florida

No. 67,493

STATE OF FLORIDA, Petitioner,

vs.

WILLIAM HEAD, Respondent.

[April 10, 1986]

PER CURIAM.

We have jurisdiction under article V, section 3(b)(4), Florida Constitution, to answer the following certified question of great public importance:

WHEN AN APPELLATE COURT FINDS THAT A SENTENCING COURT RELIED UPON A REASON OR REASONS THAT ARE IMPERMISSIBLE UNDER FLORIDA RULE OF CRIMINAL PROCEDURE 3.701 IN MAKING ITS DECISION TO DEPART FROM THE SENTENCING GUIDELINES, SHOULD THE APPELLATE COURT EXAMINE THE OTHER REASONS GIVEN BY THE SENTENCING COURT TO DETERMINE IF THOSE REASONS JUSTIFY A DEPARTURE FROM THE GUIDELINES OR SHOULD THE CASE BE REMANDED FOR A RESENTENCING?

Head v. State, 473 So.2d 18, 19 (Fla. 3d DCA 1985). We answered the identical question in State v. Young, 476 So.2d 161 (Fla. 1985). Accord Albritton v. State, 476 So.2d 158 (Fla. 1985). The decision below, consistent with holdings of this Court, is approved.

It is so ordered.

BOYD, C.J., and ADKINS, OVERTON, McDONALD, 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 Great Public Importance

Third District - Case No. 84-435

Jim Smith, Attorney General and Henry R. Barksdale, Assistant
Attorney General, Miami, Florida,

for Petitioner

Arthur Carter, Special Assistant Public Defender, Miami,
Florida; and John H. Lipinski, of Counsel, Miami, Florida,

for Respondent