

Supreme Court of Florida

No. 68,485

ALANDER CRAPPS, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[November 26, 1986]

BARKETT, J.

We have for review Crapps v. State, 483 So.2d 544 (Fla. 1st DCA 1986), because of direct and express conflict with Vicknair v. State, 483 So.2d 896 (Fla. 5th DCA 1986), approved, No. 68,536 (Fla. Nov. 26, 1986). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

In Crapps, the First District held that a finding of habitual offender status is an adequate reason to depart from the sentencing guidelines. Since accepting jurisdiction in this case, we have decided that this is not an appropriate reason for departure. Whitehead v. State, No. 67,053 (Fla. Oct. 30, 1986).

Accordingly, we quash that portion of the district court's opinion which permitted a departure because of a determination of habitual offender status and remand this case to the district court with directions to remand to the trial court for resentencing in accordance with Whitehead.

It is so ordered.

MCDONALD, C.J., and ADKINS, BOYD, EHRLICH and SHAW, JJ., Concur
OVERTON, J., Dissents

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 - Direct Conflict of Decisions

First District - Case Nos. BC-151 & BC-334

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