

Supreme Court of Florida

No. 68,608

ROBERT PAUL PATTERSON, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[January 5, 1987]

PER CURIAM.

The district court in Patterson v. State, 486 So.2d 74 (Fla. 4th DCA 1986), found error in the trial court's departure from the sentencing guidelines. Recognizing, however, that the sentence would not be a departure under the amended guidelines pursuant to State v. Jackson, 478 So.2d 1054 (Fla. 1985), the court found the error to be harmless, affirmed the sentence, and certified the same question as that certified in Wilkerson v. State, 480 So.2d 213, 215 (Fla. 1st DCA 1985), and Carter v. State, 483 So.2d 740, 741 (Fla. 5th DCA 1986):*

WHETHER ALL SENTENCING GUIDELINES ARE TO BE CONSIDERED PROCEDURAL IN NATURE SO THAT THE GUIDELINES AS MOST RECENTLY AMENDED SHALL BE APPLIED AT THE TIME OF SENTENCING WITHOUT REGARD TO THE EX POST FACTO DOCTRINE.

486 So.2d at 76, n.1. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

* This Court dismissed administratively a subsequent petition for review in Carter v. State, 491 So.2d 278 (Fla. 1986).

We recently answered the certified question in the affirmative in Wilkerson v. State, 494 So.2d 210 (Fla. 1986), on the authority of Jackson. In accordance therewith, we approve the result reached by the district court.

It is so ordered.

MCDONALD, C.J., ADKINS, BOYD, 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 Great Public Importance

Fourth District - Case No. 85-906

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