

# Supreme Court of Florida

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No. 68,616  
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TIMOTHY VAN HORN, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[December 4, 1986]

EHRlich, J.

We have for review Van Horn v. State, 485 So.2d 1380 (Fla. 3d DCA 1986) in which the district court, on the authority of our decision in State v. Jackson, 478 So.2d 1054 (Fla. 1985), affirmed Van Horn's sentence under the guidelines in effect at the time of his sentencing rather than those in effect at the time of the offense. The district court certified the following question as one of great public importance:

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

485 So.2d at 1381. We have jurisdiction pursuant to article V, section 3(b)(4) of the Florida Constitution.

We recently answered this question in the affirmative in Wilkerson v. State, Case No. 68,181 (Sept. 18, 1986).

Accordingly, the decision below is approved.

It is so ordered.

McDONALD, C.J., and ADKINS, BOYD, OVERTON, 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. 84-2274

Bennett H. Brummer, Public Defender, Eleventh Judicial Circuit,  
and Beth C. Weitzner, Assistant Public Defender, Miami, Florida,

for Petitioner

Jim Smith, Attorney General, and Nancy C. Wear, Assistant Attorney  
General, Miami, Florida,

for Respondent