

Supreme Court of Florida

No. 70,167

STATE OF FLORIDA, Petitioner,

vs.

KEVIN MICHAEL MALONE, Respondent.

[September 17, 1987]

PER CURIAM.

We review Malone v. State, No. 86-387 (Fla. 2d DCA, Jan. 28, 1987), to answer the certified question of whether retroactive application of the penalty provisions of section 27.3455, Florida Statutes (1985), violates the ex post facto provisions of the United States and Florida Constitutions. Art. V, § 3(b)(4), Fla. Const. We answer in the affirmative and approve the decision below on the authority of State v. Yost, 507 So.2d 1099 (Fla. 1987).

It is so ordered.

McDONALD, C.J., and OVERTON, EHRLICH, SHAW, BARKETT, GRIMES and KOGAN, 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

Second District - Case No. 86-387

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for Petitioner

James Marion Moorman, Public Defender, Tenth Judicial Circuit, and
John T. Kilcrease, Jr., Assistant Public Defender, Bartow, Florida,

for Respondent