

Supreme Court of Florida

No. 70,327

PAUL L. MADSEN, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[January 28, 1988]

OVERTON, J.

This is a petition to review Madsen v. State, 502 So. 2d 948 (Fla. 4th DCA 1987), in which the district court refused to suppress the recording of petitioner's conversation with an undercover officer in the petitioner's home. We accepted jurisdiction because the identical issue was before this Court on petition to review the lower court's construction of the 1982 revision of article I, section 12, Florida Constitution, in State v. Hume, 463 So. 2d 499 (Fla. 1st DCA 1985). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

We have recently resolved the issue in our opinion in State v. Hume, 512 So. 2d 185 (Fla. 1987), in which we held that "the recording of conversations between a defendant and an undercover agent in a defendant's home . . . does not violate the fourth amendment of the United States Constitution and, accordingly, does not violate the newly adopted article I, section 12, of the Florida Constitution." Id. at 188. We also rejected the contention that our right-of-privacy provision under article I, section 23, of the Florida Constitution prohibited the introduction of this type of evidence.

We find no conflict with Winfield v. Division of Pari-Mutuel Wagering, 477 So. 2d 544 (Fla. 1985).

In accordance with our decision in Hume, we approve the district court decision in the instant case.

It is so ordered.

McDONALD, C.J., and EHRLICH, SHAW, GRIMES and KOGAN, JJ., Concur
BARKETT, J., Concur in result only

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

Fourth District - Case No. 85-889

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