

Supreme Court of Florida

No. 70,532

C.P., a juvenile, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[December 3, 1987]

OVERTON, J.

We have for review C.P. v. State, 505 So. 2d 616 (Fla. 3d DCA 1987), in which the district court, citing State v. McGee, 494 So. 2d 255 (Fla. 2d DCA 1986), affirmed the charge of possession with intent to sell less than twenty grams of cannabis as a third-degree felony, rather than a first-degree misdemeanor. We accepted jurisdiction on the basis of acknowledged conflict with Franklin v. State, 346 So. 2d 137 (Fla. 1st DCA 1977). In our recent decision in McGee v. State, No. 69,340 (Fla. Jul. 9, 1987), we resolved the conflict in accordance with the district court's view in the instant case. Accordingly, we approve the decision of the district court.

It is so ordered.

McDONALD, C.J., and 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 - Direct Conflict of Decisions

Third District - Case No. 85-2765

Bennett H. Brummer, Public Defender, Eleventh Judicial Circuit,
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for Petitioner

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