

Supreme Court of Florida

CORRECTED OPINION

No. 70,588

STATE OF FLORIDA, Petitioner,

vs.

CHARLES KOOPMAN, Respondent.

[January 28, 1988]

BARKETT, J.

We accepted jurisdiction pursuant to article V, section 3(b)(4) of the Florida Constitution to answer the question of great public importance certified in Koopman v. State, 507 So.2d 684, 686 (Fla. 2d DCA 1987):

May the quantity of drugs involved in possession or delivery of cocaine be used as a proper reason to support a valid departure from the sentencing guidelines?

In Atwaters v. State, No. 69,555 (Fla. Jan. 28, 1988), we held that the quantity of drugs involved in a crime cannot be a proper reason to support departure from the sentencing guidelines. Accordingly, we answer the certified question in the negative and approve the decision of the district court.

It is so ordered.

McDONALD, C.J., and OVERTON, EHRLICH, SHAW, 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. 86-2407

Robert A. Butterworth, Attorney General and Erica M. Raffel,
Assistant Attorney General, Tampa, Florida,

for Petitioner

Daniel M. Hernandez of Daniel M. Hernandez, P.A., Tampa, Florida,

for Respondent