

Supreme Court of Florida

No. 70,883

STATE OF FLORIDA, Petitioner,

vs.

JUAN OSCAR DOMINGUEZ, Respondent.

[February 11, 1988]

PER CURIAM.

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 Dominguez v. State, 508 So.2d 1316, 1318 (Fla. 1st DCA 1987):

May the quantity of drugs involved in a crime be a proper reason to support 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, 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

First District - Case No. BJ-109

Robert A. Butterworth, Attorney General and Mark C. Menser,
Assistant Attorney General, Tallahassee, Florida,

for Petitioner

Michael E. Allen, Public Defender and P. Douglas Brinkmeyer,
Assistant Public Defender, Second Judicial Circuit, Tallahassee,
Florida,

for Respondent