

Supreme Court of Florida

No. 73,514

MICHAEL McBRIDE, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[November 30, 1989]

BARKETT, J.

We have for review McBride v. State, 535 So.2d 692 (Fla. 4th DCA 1988), in which the district court affirmed on authority of State v. Avery, 531 So.2d 182 (Fla. 4th DCA 1988). In Avery, the district court certified the following question to be of great public importance:

May evidence, obtained as a result of defendant's consent to search, be suppressed by the trial court as "coerced" upon the sole ground that the officer(s) boarded a bus (or other public transport) and randomly sought consent from passengers?

Id. at 188. We have discretionary jurisdiction. Art. V, § 3(b)(4), Fla. Const. For the reasons expressed in Bostick v. State, No. 70,996 (Fla. Nov. 30, 1989), we answer the certified question, as rephrased therein, in the affirmative, quash the opinion of the district court, and remand to the district court for proceedings consistent with Bostick.

It is so ordered.

EHRlich, C.J., and SHAW and KOGAN, JJ., Concur
GRIMES, J., Dissents with an opinion, in which OVERTON and
McDONALD, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF
FILED, DETERMINED.

GRIMES, J., dissenting.

I dissent for the reasons expressed in my dissenting opinion in Bostick v. State, No. 70,996 (Fla. Nov. 30, 1989).

OVERTON and McDONALD, JJ., Concur

Application for Review of the Decision of the District Court of
Appeal - Direct Conflict of Decisions

Fourth District - Case No. 87-2108
(Broward County)

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