

Supreme Court of Florida

Nos. 76,260, 76,310, 76,311

STEVEN VALDEZ, etc., Petitioner,

vs.

TOM TRAMEL, SHERIFF, etc., Respondent.

LAWRENCE A. DEMERS, Petitioner,

vs.

TOM TRAMEL, SHERIFF, etc., Respondents.

KEVIN J. ORY, Petitioner,

vs.

TOM TRAMEL, SHERIFF, etc., Respondents.

[June 20, 1991]

OVERTON, J.

These consolidated petitions seek review of McCaskill v. McMillan, 563 So. 2d 800 (Fla. 1st DCA 1990), in which the First

District Court of Appeal certified the question presented regarding the interpretation of rule 3.133(b)(6),¹ Florida Rules of Criminal Procedure, concerning the timely charging of defendants by indictment or information as a matter of great public importance. We have jurisdiction pursuant to article V, section 3(b)(4), Florida Constitution.

We answered this question in Bowens v. Tyson, No. 74,370 (Fla. Apr. 25, 1991), holding that rule 3.133(b)(6) does not mandate a defendant's automatic release if the state files an information or indictment after the thirty-day filing period has expired but before the court hears the defendant's motion for release. In accordance with Bowens, we approve the decision of the district court.

It is so ordered.

SHAW, C.J. and McDONALD, GRIMES and HARDING, JJ., concur.
BARKETT, J., concurs specially with an opinion, in which KOGAN, J., concurs.

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

¹ This rule has been renumbered as rule 3.134, Florida Rules of Criminal Procedure. See In re Amendment to Fla. R. Crim. P. 3.133(b)(6) (Pre-Trial Release), 573 So. 2d 826 (Fla. 1991).

BARKETT, J., concurring specially.

I agree with the result for the reasons stated in my opinion in Bowens v. Tyson, No. 74,370 (Fla. Apr. 25, 1991) (Barkett, J., specially concurring).

KOGAN, J., concurs.

Three Consolidated Applications for Review of the Decision of the
District Court of Appeal - Certified Great Public Importance

First District - Case Nos. 90-1484, 90-1665 & 90-1666

C. Dennis Roberts, Public Defender and Jonathan W. Dingus,
Assistant Public Defender, Third Judicial Circuit, Lake City,
Florida, for Valdez; and John J. Terhune, Live Oak, Florida, for
Demers and Ory,

for Petitioners

Robert A. Butterworth, Attorney General and Edward C. Hill, Jr.,
Assistant Attorney General, Tallahassee, Florida,

for Respondent