

Supreme Court of Florida

COPY

No. 76,812

STATE OF FLORIDA, Petitioner,

vs.

CURTIS WHITE, Respondent.

[March 21, 1991]

OVERTON, J.

The State of Florida petitions this Court to review White v. State, 571 So. 2d 498 (Fla. 2d DCA 1990), in which the Second District Court of Appeal affirmed White's convictions and sentences for two counts of selling cocaine but vacated his convictions and sentences for two counts of possession of cocaine. The district court certified the following question as one of great public importance:

WHEN A DOUBLE JEOPARDY VIOLATION IS ALLEGED BASED ON THE CRIMES OF SALE AND POSSESSION (OR POSSESSION WITH INTENT TO SELL) OF THE SAME QUANTUM OF CONTRABAND AND THE CRIMES OCCURRED AFTER THE EFFECTIVE DATE OF SECTION 775.021, FLORIDA STATUTES (1988 SUPP.), IS IT IMPROPER TO CONVICT AND SENTENCE FOR BOTH CRIMES?

Id. at 499. We have jurisdiction pursuant to article V, section 3(b)(4), Florida Constitution.

We recently addressed this same certified question in State v. McCloud, No. 75,975 (Fla. Feb. 28, 1991), and in State v. V.A.A., No. 75,902 (Fla. Feb. 28, 1991), and we answered the question in the negative. In accordance with those decisions, we quash that part of the district court's decision in White vacating White's convictions and sentences for two counts of possession of cocaine. We remand for proceedings consistent with this opinion.

It is so ordered.

SHAW, C.J., and McDONALD, BARKETT, GRIMES, KOGAN and HARDING, 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. 90-00423

(Lee County)

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