

Supreme Court of Florida

No. 77,241

STATE OF FLORIDA, Petitioner,

v.

JAMES HOWARD GILLETTE, Respondent.

[June 13, 1991]

PER CURIAM.

We granted review of Gillette v. State, 571 So.2d 600, 600 (Fla. 2d DCA 1990), to answer the following certified question 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?

We have jurisdiction pursuant to article V, section 3(b)(4) of the Florida Constitution. We answered this question in the negative in State v. McCloud, no. 75,975 (Fla. Feb. 28, 1991),

and State v. V.A.A., no. 75,902 (Fla. Feb. 28, 1991). Therefore, we quash the opinion under review with instructions to affirm the conviction and sentence for possession of cocaine.

It is so ordered.

SHAW, C.J. and OVERTON, 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. 90-01429

(Pinellas County)

Robert A. Butterworth, Attorney General, and Wendy Buffington and
Peggy A. Quince, Assistant Attorneys General, Tampa, Florida,

for Petitioner

Dwight M. Wells, Tampa, Florida,

for Respondent