

Supreme Court of Florida

ORIGINAL

No. 78,486

JOSE REINALDO AIRA, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[March 5, 1992]

PER CURIAM.

We have for review Aira v. State, 583 So.2d 419 (Fla. 5th DCA 1991), in which the Fifth District Court of Appeal affirmed the trial court's use of a multiplier in calculating legal constraint points. We have jurisdiction pursuant to article V, section 3(b)(3), Florida Constitution.

In Flowers v. State, 586 So.2d 1058 (Fla. 1991), we disapproved the use of a multiplier and held that legal constraint points are to be scored once on the sentencing guideline scoresheet.

Accordingly, we quash the decision below to the extent that it conflicts with our decision in Flowers, and remand this case for reconsideration.

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 - Direct Conflict of Decisions

Fifth District - Case No. 90-2553

(Orange County)

James B. Gibson, Public Defender and Kenneth Witts, Assistant
Public Defender, Seventh Judicial Circuit, Daytona Beach,
Florida,

for Petitioner

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