

Supreme Court of Florida

No. 78,536

DONALD MCCALL, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[January 21, 1993]

CORRECTED OPINION

OVERTON, J.

We have for review McCall v. State, 583 So. 2d 411 (Fla. 4th DCA 1991), in which the district court held that chapter 89-280, Laws of Florida,¹ did not violate the constitutional single subject requirement of article III, section 6, of the Florida

¹ Chapter 89-280 amended section 775.084, Florida Statutes (1989) (the habitual felony offender statute).

Constitution. We recently reached a contrary result in addressing that same issue in State v. Johnson, Nos. 79,150 & 79,204 (Fla. Jan. 14, 1993).² In accordance with our decision in Johnson, we quash, in part, the district court's decision in McCall.

Nevertheless, we approve McCall's sentence. As we noted in Johnson, the record in this case reflects that McCall was sentenced under section 775.084, Florida Statutes (1989), because of several prior felony convictions, including delivery of cocaine and grand theft. None of the prior conviction categories under which McCall was habitualized were altered by the amendments to section 775.084 contained in chapter 89-280. Consequently, we approve the result of the district court's decision because McCall's sentence is not affected by our decision in Johnson. We decline to consider the remaining issues raised by McCall.

It is so ordered.

BARKETT, C.J., and McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.

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

² We have jurisdiction, Art, V, § 3(b)(3), Fla. Const.

Application for Review of the Decision of the District Court of
Appeal - Statutory Validity

Fourth District - Case No. 91-0134

(Broward County)

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