

Supreme Court of Florida

ORIGINAL

No. 79,910

STATE OF FLORIDA, Petitioner,

vs.

MICHAEL ANTHONY RHODES, Respondent.

[July 1, 1993]

PER CURIAM.

We have for review Rhodes v. State, 597 So. 2d 974 (Fla. 4th DCA 1992), in which the Fourth District Court of Appeal reversed the respondent's conviction for purchasing crack cocaine within one thousand feet of a school because the district court

found that law enforcement officials' illegal manufacturing of a controlled substance violated the due process clause of the Florida Constitution.¹ The district court cited its decision in Kelly v. State, 593 So. 2d 1060 (Fla. 4th DCA), review denied, 599 So. 2d 1280 (Fla. 1992), as the basis of the reversal. The district court certified the issue raised by Kelly to this Court in Williams v. State, 593 So. 2d 1064 (Fla. 4th DCA 1992), a case which we subsequently accepted for review. Thus, we accept jurisdiction of the instant case. Art. V, § 3(b)(3), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

In Williams, the Fourth District Court of Appeal certified the following question as one of great public importance:

DOES THE SOURCE OF ILLEGAL DRUGS USED BY LAW ENFORCEMENT PERSONNEL TO CONDUCT REVERSE STINGS CONSTITUTIONALLY SHIELD THOSE WHO BECOME ILLICITLY INVOLVED WITH SUCH DRUGS FROM CRIMINAL LIABILITY?

593 So. 2d at 1064. We subsequently addressed this issue in State v. Williams, No. 79,507 (Fla. July 1, 1993), where we held

that the illegal manufacture of crack cocaine by law enforcement officials for use in a reverse-sting operation within one thousand feet of a school constitutes governmental misconduct which violates the due process clause of the Florida Constitution.

¹ Art. I, § 9, Fla. Const.

Slip op. at 2. Accordingly, we approve the decision of the district court below.

It is so ordered.

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

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

Fourth District - Case No. 91-2482

(Broward County)

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