

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2007

SIMON SCOTT,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D06-3776

[June 13, 2007]

SHAHOOD, J.

Appellant, Simon Scott, seeks review of the trial court's sentencing order. The court's original sentence was vacated, and appellant was resentenced after the decisions in *Apprendi v. New Jersey*, 530 U.S. 466 (2000), and *Blakely v. Washington*, 542 U.S. 296 (2004), were rendered. At resentencing, the trial court found that appellant was not entitled to be sentenced under the holdings in *Apprendi* and the case clarifying it, *Blakely*.

Appellant acknowledges that this court's decisions in *Garcia v. State*, 914 So. 2d 29 (Fla. 4th DCA 2005), *Hamilton v. State*, 914 So. 2d 993 (Fla. 4th DCA 2005), *Thomas v. State*, 914 So. 2d 27 (Fla. 4th DCA 2005), and *Brown v. State*, 940 So. 2d 498 (Fla. 4th DCA 2006), are contrary to his position. We certified conflict in those cases with the First District Court of Appeal in *Isaac v. State*, 911 So. 2d 813 (Fla. 1st DCA 2005). Appellant urges this court to reconsider those decisions or certify conflict with *Isaac*.

We decline to reconsider our decisions in the above cases. However, we certify conflict with the opinion in *Isaac* to the extent that it holds *Apprendi* and *Blakely* are to be applied in resentencing in cases where convictions were final prior to those cases.

Affirmed; Conflict Certified.

GROSS and MAY, JJ., concur.

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Appeal from the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Susan Lebow, Judge; L.T. Case No. 95-4096 CF10A.

Carey Haughwout, Public Defender, and Ellen Griffin, Assistant Public Defender, West Palm Beach, for appellant.

Bill McCollum, Attorney General, Tallahassee, and Melynda L. Melear, Assistant Attorney General, West Palm Beach, for appellee.

Not final until disposition of timely filed motion for rehearing