Supreme Court of Florida

_____

No. SC96392

_____

STATE OF FLORIDA,
Petitioner,

vs.

JOSEPH M. DAMICO,
Respondent.

[June 29, 2000]

PER CURIAM.

We have for review the decision in State v. Damico, 742 So. 2d 349 (Fla. 2d

DCA 1999), which the district court certified to be in conflict with the opinion in

Woods v. State, 740 So. 2d 20 (Fla. 1st DCA 1999), and McKnight v. State, 727

So. 2d 314 (Fla. 3d DCA 1999). We have jurisdiction. See art. V, § 3(b)(4), Fla.

Const.

We recently approved the First District's decision in Woods, holding that the

Prison Releasee Reoffender Act, as properly interpreted by the First District, does

not violate separation of powers, and rejecting other constitutional challenges to the

Act. See State v. Cotton, Nos. SC94996 & SC95281 (Fla. June 15, 2000).

Accordingly, for the reasons expressed in Cotton, we quash the Second District's

decision in this case, and remand for further proceedings consistent with our opinion

in Cotton. Because it appears that the respondent entered a plea of guilty with the

understanding that respondent, upon such plea, would not be sentenced pursuant to

the Act, upon remand to the trial court, respondent shall have the right to withdraw

his guilty plea.

It is so ordered.

HARDING, C.J., and SHAW, WELLS, ANSTEAD, PARIENTE and LEWIS, JJ.,
concur.
QUINCE, J., dissents with an opinion.

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

QUINCE, J., dissenting.

I dissent for the reasons stated in my dissent in State v. Cotton, Nos.

SC94996 & SC95281 (Fla. June 15, 2000).

Application for Review of the Decision of the District Court of Appeal - Certified
Direct Conflict of Decisions

Second District - Case No. 2D98-03904

(Pinellas County)

Robert A. Butterworth, Attorney General, Robert J. Krauss, Senior Assistant Attorney General, Chief of Criminal Law, and Wendy Buffington, Assistant Attorney General, Tampa, Florida,

for Petitioner

Walter L. Grantham, Jr., Clearwater, Florida

for Respondent