

Supreme Court of Florida

No. SC00-1646

STATE OF FLORIDA,
Petitioner,

vs.

DARIOUS DAVIS,
Respondent.

[July 12, 2001]

LEWIS, J.

We have for review Davis v. State, 760 So. 2d 977 (Fla. 3d DCA 2000).

We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.

We quash, in part, the decision of the district court to the extent it determines that a defendant cannot be sentenced as both a prison releasee reoffender and a habitual violent felony offender. Such sentencing does not constitute double jeopardy. See Grant v. State, 770 So. 2d 655 (Fla. 2000) (determining that sentencing under both the Prison Releasee Reoffender Act (the “Act”) and another

recidivist statute did not constitute double jeopardy, but that the imposition of equal, concurrent sentences under both statutes violated the Act itself).

Accordingly, we remand the issue for reconsideration upon application of our decisions in Grant; State v. Cotton, 769 So. 2d 345 (Fla. 2000); McKnight v. State, 769 So. 2d 1039 (Fla. 2000); and Ellis v. State, 762 So. 2d 912 (Fla. 2000).

It is so ordered.

WELLS, C.J., and SHAW, HARDING, ANSTEAD, and PARIENTE, JJ., concur.
QUINCE, 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

Third District - Case No. 3D98-3286

(Miami-Dade County)

Robert A. Butterworth, Attorney General, and Michael J. Neimand and Gary K.
Milligan, Assistant Attorneys General, Fort Lauderdale, Florida,

for Petitioner

No appearance,

for Respondent