

Supreme Court of Florida

No. SC00-285

GERALD L. BEDFORD,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[February 15, 2001]

LEWIS, J.

We have for review the decision in Bedford v. State, 747 So. 2d 1054 (Fla. 5th DCA 2000), which certified conflict with the opinions in State v. Wise, 744 So. 2d 1035 (Fla. 4th DCA 1999), quashed, 762 So. 2d 523 (Fla. 2000), and State v. Cotton, 728 So. 2d 251 (Fla. 2d DCA 1998), quashed, 769 So. 2d 345 (Fla. 2000). We have jurisdiction. See art. V, § 3(b)(4), Fla. Const.

Bedford challenges his sentence under the Prison Releasee Reoffender Act¹

¹See § 775.082(9), Fla. Stat. (Supp. 1998).

(the “Act”) on grounds which have been addressed by previous opinions of this Court. See McKnight v. State, 769 So. 2d 1039 (Fla. 2000) (holding that a defendant has the right both to present evidence to prove that the defendant does not qualify for sentencing under the Act and to challenge the State’s evidence regarding the defendant’s eligibility for sentencing as a prison releasee reoffender); State v. Cotton, 769 So. 2d 345 (Fla. 2000) (holding that the Act violates neither separation of powers nor principles of due process by allowing a “victim veto” that precludes application of the Act, as well as holding that the Act is not void for vagueness and does not constitute a form of cruel or unusual punishment).²

Accordingly, we approve the decision in Bedford.

It is so ordered.

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

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

QUINCE, J., dissenting.

²In its decision in Bedford, the Fifth District cited to its decision in Speed v. State, 732 So. 2d 17 (Fla. 5th DCA 1999), approved, No. SC95706 (Fla. Feb. 1, 2001), and certified conflict with the decisions in State v. Wise, 744 So. 2d 1035 (Fla. 4th DCA 1999), quashed, 762 So. 2d 523 (Fla. 2000), and State v. Cotton, 728 So. 2d 251 (Fla. 2d DCA 1998), quashed, 769 So. 2d 345 (Fla. 2000). In our decision in Cotton, we disapproved the opinions in Speed and Wise to the extent that they implied, in dicta, that a subsection of the Act gives to each victim a veto over the imposition of the mandatory sentences that are prescribed in other parts of the Act.

I dissent for the reasons stated in my dissent in State v. Cotton, 769 So. 2d 345, 358-59 (Fla. 2000).

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

Fifth District - Case No. 5D99-1657

(Orange County)

James B. Gibson, Public Defender, and Anne Moorman Reeves, Assistant Public
Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, and Kellie A. Nielan, Assistant Attorney
General, Daytona Beach, Florida,

for Respondent

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