

Supreme Court of Florida

No. SC96394

STATE OF FLORIDA,
Petitioner,

vs.

DARRYL JOHNSON,
Respondent.

[June 29, 2000]

PER CURIAM.

We have for review the decision in State v. Johnson, 743 So. 2d 45 (Fla. 2d DCA 1999), in which the district court affirmed the lower court's sentencing decision based upon State v. Cotton, 728 So. 2d 251 (Fla. 2d DCA 1998)(holding that the trial court has discretion to determine whether a defendant should be sentenced as a prison releasee reoffender pursuant to section 775.082(8), Florida Statutes (1997)). In so doing, the Second District certified conflict with 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 V, § 3(b)(4), Fla. Const.

We recently quashed the Second District's decision in Cotton, and approved the First District's decision in Woods v. State, 740 So. 2d 20 (Fla. 1st DCA 1999), holding that the 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 with directions to remand the case to the trial court for proceedings consistent with our opinion in Cotton.

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. 2D98-03019

(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