

SUPREME COURT OF FLORIDA

State v. Robbins

863 So. 2d 168 (Fla. 2003) · No. No. SC02-2583 · Decided September 18, 2003

SUMMARY

The Supreme Court of Florida dismissed review after determining that jurisdiction had been improvidently granted in a case involving the speedy-trial treatment of misdemeanor charges consolidated with felony charges. Justice Wells dissented, arguing that the court should answer the certified question and apply Florida Rule of Criminal Procedure 3.191(f) according to its plain language.

CASE DETAILS

COURT	Supreme Court of Florida
WRITING FOR THE COURT	Anstead, C.J.; Pariente, J.; Lewis, J.; Quince, J.; Cantero, J.; Bell, J.; Wells, J.
JURISDICTION	Florida
DECIDED	September 18, 2003
DOCKET	No. SC02-2583
DISPOSITION	dismissed
PROCEDURAL POSTURE	The Supreme Court of Florida accepted review of a decision of the Fifth District Court of Appeal but later determined that jurisdiction had been improvidently granted and dismissed review.
PRECEDENTIAL VALUE	Published jurisdictional disposition; no merits holding on the certified speedy-trial question.
PARTIES	State of Florida v. Jason Ray Robbins

TOPICS

- speedy trial
- appellate jurisdiction
- criminal procedure
- statutory interpretation
- separation of powers

PRACTICE AREAS

- criminal procedure
- appellate jurisdiction
- speedy trial
- statutory interpretation

QUESTIONS PRESENTED

1. Whether the Supreme Court of Florida had jurisdiction to review the Fifth District's decision and certified question.
2. Whether review should be dismissed because jurisdiction had been improvidently granted.

HOLDINGS

1. The Supreme Court of Florida determined that jurisdiction had been improvidently granted and dismissed review of the cause.

KEY QUOTATIONS

“WHEN AN INFORMATION CHARGING A DEFENDANT WITH BOTH MISDEMEANOR AND FELONY CHARGES IS FILED AFTER THE EXPIRATION OF THE SPEEDY TRIAL PERIOD FOR MISDEMEANORS, MUST THE MISDEMEANOR COUNTS BE DISMISSED?” (168)

“When a felony and a misdemeanor are consolidated for disposition in circuit court, the misdemeanor shall be governed by the same time period applicable to the felony.” (169)

FACTUAL BACKGROUND

The record involved an information charging Jason Ray Robbins with both misdemeanor and felony offenses. The information was allegedly filed after expiration of the speedy-trial period applicable to the misdemeanor charges. The Fifth District certified whether the misdemeanor counts were required to be dismissed under Florida's speedy-trial rule.

PROCEDURAL HISTORY

The Fifth District Court of Appeal certified a question of great public importance concerning whether misdemeanor counts must be dismissed when charged after expiration of the misdemeanor speedy-trial period in an information also charging felony offenses. The Supreme Court of Florida initially accepted review under article V, section 3(b)(4), of the Florida Constitution, then dismissed review after concluding that jurisdiction had been improvidently granted. Justice Wells dissented, arguing that the certified question should be answered on the merits.

DISPOSITION

dismissed

CASES CITED

- State v. Robbins, 830 So. 2d 866 (Fla. 5th DCA 2002)
- Alvarez v. State, 791 So. 2d 574 (Fla. 4th DCA 2001)
- Livingston v. State, 564 So. 2d 612 (Fla. 1st DCA 1990)
- Reed v. State, 649 So. 2d 227, 229 (Fla. 1995)
- Genden v. Fuller, 648 So. 2d 1183 (Fla. 1994)

OPINION

PER CURIAM.

863 So. 2d 168 (2003) STATE of Florida, Petitioner, v. Jason Ray ROBBINS, Respondent. No. SC02-2583. Supreme Court of Florida. September 18, 2003. Charles J. Crist, Jr., Attorney General, and Ann M. Phillips, Assistant Attorney General, Daytona Beach, FL, for Petitioner. James B. Gibson, Public Defender, and Marvin F. Clegg and Christopher S. Quarles, Assistant Public Defenders, Seventh Judicial Circuit, Daytona Beach, FL, for Respondent.

PER CURIAM. We originally accepted review of State v. Robbins, 830 So. 2d 866 (Fla. 5th DCA 2002), pursuant to article V, section 3(b)(4) of the Florida Constitution. Upon closer examination, however, we find that jurisdiction was improvidently granted in this case.

Therefore, we dismiss review of this cause. It is so ordered. ANSTEAD, C.J., and PARIENTE, LEWIS, QUINCE, CANTERO, and BELL, JJ., concur. WELLS, J., dissents with an opinion. WELLS, J., dissenting. I do not agree with discharging jurisdiction. This Court has jurisdiction because the Fifth District certified the following question as one of great public importance: WHEN AN INFORMATION CHARGING A DEFENDANT WITH BOTH MISDEMEANOR AND FELONY CHARGES IS FILED AFTER THE EXPIRATION OF THE SPEEDY TRIAL PERIOD FOR MISDEMEANORS, MUST THE MISDEMEANOR COUNTS BE DISMISSED?

By refusing to answer this question, the majority leaves in effect Alvarez v. State, 791 So. 2d 574 (Fla. 4th DCA 2001), and Livingston v. State, 564 So. 2d 612 (Fla. 1st DCA 1990). Alvarez and Livingston answer the certified question in the affirmative. This answer conflicts with the plain language of Florida Rule of Criminal Procedure 3.191(f), which states: *169 Consolidation of Felony and Misdemeanor.

When a felony and a misdemeanor are consolidated for disposition in circuit court, the misdemeanor shall be governed by the same time period applicable to the felony. If the plain language of the rule is applied, the answer to the certified question is in the negative. It is important that the speedy trial rule be strictly construed because the application of the rule by this Court conflicts with the Florida Constitution's mandate for separation of powers.

As pointed out by Justice Overton in his dissent in Reed v. State, 649 So. 2d 227, 229 (Fla.1995), this Court's application of the speedy trial rule has made the rule substantive law, rather than procedural, because a speedy trial rule dismissal is with prejudice to the refile of the charges. Fla. R.Crim. P. 3.191(n). This effectively alters the statute of limitations lawfully enacted by the Legislature.

See Genden v. Fuller, 648 So. 2d 1183 (Fla.1994) (Wells, J., dissenting). Thus, an expansion of the reach of the speedy trial rule in respect to misdemeanors consolidated with felonies by not

applying rule 3.191(f) as written is further in conflict with section 775.15(2)(c) and (d), Florida Statutes, and article II, section 3 of the Florida Constitution.

Therefore, I believe we should accept this important question.