



State v. Sims

720 So.2d 213 (1998) | Cited 1 times | Supreme Court of Florida | October 15, 1998

We have for review a decision ¹ of the district court that cited as controlling authority State v. Ellis, 22 Fla. L. Weekly D1298 (Fla. 1st DCA May 22, 1997), which was then pending on review in this Court. We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

Sims was charged with perjury for allegedly lying in a deposition concerning her role in an armed robbery. The trial court found the perjury statute, section 837.011(3), Florida Statutes (1995), unconstitutional, reasoning that the statute removes an element of the offense, i.e., materiality, from the jury's consideration. The district court denied certiorari based on Ellis. We have since quashed Ellis. See State v. Ellis, No. 90,729 (Fla. Oct. 15, 1998).

We quash the decision under review.

It is so ordered.

HARDING, C.J., and OVERTON, KOGAN, WELLS, ANSTEAD and PARIENTE, JJ., concur.

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 - Statutory Validity

First District - Case No. 97-2193

1. State v. Sims, No. 97-2193 (Fla. 1st DCA June 23, 1997).

