

# Supreme Court of Florida

**ORIGINAL**

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No. 76,525

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PEDRO FERNANDEZ, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[February 13, 1992]

PER CURIAM.

We originally accepted jurisdiction to review Fernandez v. State, 564 So. 2d 272 (Fla. 2d DCA 1990), upon the assumption that it conflicted with Ree v. State, 565 So. 2d 1329 (Fla. 1990), modified, State v. Lyles, 576 So. 2d 706 (Fla. 1991), and Lambert v. State, 545 So. 2d 838 (Fla. 1989). We have now determined that no conflict exists and that the opinion below is consistent with our decisions in State v. Betancourt, 552 So. 2d

1107 (Fla. 1989), and Jones v. State, 559 So. 2d 204 (Fla.),  
cert. denied, 111 S.Ct. 276 (1990). Because the defendant is  
going to be resentenced upon a violation of probation, we call  
the trial judge's attention to Williams v. State, 581 So. 2d 144  
(Fla. 1991), and Williams v. State, No. 75,919 (Fla. Feb. 6,  
1992), as well as Lambert, all of which provide guidance for  
sentencing under such circumstances. We dismiss the petition for  
review.

It is so ordered.

SHAW, C. J. and OVERTON, McDONALD, BARKETT, GRIMES, KOGAN and  
HARDING, JJ., concur.

NO MOTION FOR REHEARING WILL BE ALLOWED.

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

Second District - Case No. 87-01828

(Hillsborough County)

James Marion Moorman, Public Defender and Deborah K.  
Brueckheimer, Assistant Public Defender, Tenth Judicial Circuit,  
Bartow, Florida,

for Petitioner

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Assistant Attorney General, Tampa, Florida,

for Respondent