

Supreme Court of Florida

ORIGINAL

No. 79,690

WILLIAM FENELL PITTMAN, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[June 24, 1993]

PER CURIAM.

We have for review Pittman v. State, 595 So. 2d 1101 (Fla. 2d DCA 1992), in which the district court recognized conflict with Lang v. State, 566 So. 2d 1354 (Fla. 5th DCA 1990). We find conflict and have jurisdiction pursuant to article V, section 3(b)(3) of the Florida Constitution.

The issue in the instant case is whether a negotiated plea agreement to impose adult sanctions on a juvenile waives the

juvenile's rights under section 39.059, Florida Statutes (Supp. 1990). We addressed this issue in Sirmons v. State, No. 79,754 (Fla. June 24, 1993), and held that absent an intelligent and knowing waiver on the record a negotiated plea agreement does not waive a juvenile's rights for the court to make written findings and reasons for the imposition of adult sanctions. Slip op. at 2.

The record shows that the juvenile in the instant case did not intelligently or knowingly waive his right to have the trial court determine the appropriateness of adult sanctions. Therefore, the case must be remanded to the trial court for resentencing.

Accordingly, we quash the decision below and remand for proceedings consistent with this Court's opinion in Sirmons.

It is so ordered.

OVERTON, McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur. BARKETT, C.J., concurs specially with an opinion.

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

BARKETT, C.J., specially concurring.

I concur, but with the same reservations I expressed in Sirmons v. State, No. 79,754 (Fla. June 24, 1993).

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

Second District - Case No. 91-00943

(Polk County)

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for Petitioner

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