

Supreme Court of Florida

No. 78,299

CARLOS DeLEON, Petitioner,

v.

STATE OF FLORIDA, Respondent.

ORIGINAL

[February 6, 1992]

McDONALD, J.

We review DeLeon v. State, 580 So.2d 292 (Fla. 4th DCA 1991), because, in an unpublished order dated June 24, 1991, the district court granted DeLeon's motion to certify the following question as being of great public importance:

Do Instruction 3.04(c)(2), Florida Standard Jury Instructions in Criminal Cases, and Section 777.201(2), Florida Statutes (1989), both applicable to offenses after 1987, unconstitutionally shift the burden to the defense to prove entrapment?

We recently answered this question in the negative. Herrera v.

State, No. 78,290 (Fla. Feb. 6, 1992). Therefore, we approve
DeLeon.

It is so ordered.

SHAW, C.J. and OVERTON, GRIMES, KOGAN and HARDING, JJ., concur.
BARKETT, J., concurs in result only.

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 - Certified Great Public Importance

Fourth District - Case No. 90-2762

(Broward County)

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