

Supreme Court of Florida

ORIGINAL

No. 80,151

ROBERT LEE COON, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[January 21, 1993]

OVERTON, J.

We have for review Coon v. State, 605 So. 2d 93 (Fla. 2d DCA 1992), in which the district court addressed the same question we recently answered in State v. Johnson, Nos. 79,150 & 79,204 (Fla. Jan. 14, 1993).¹ In accordance with our decision in Johnson, we quash the decision of the district court in the instant case and remand this cause for resentencing.

¹ We have jurisdiction, Art. V, § 3(b)(3), Fla. Const.

We decline to consider the other issue raised by Coon.

It is so ordered.

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

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

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

Second District - Case No. 91-02863

(Hardee County)

James Marion Moorman, Public Defender and Julius Aulisio,
Assistant Public Defender, Tenth Judicial Circuit, Bartow,
Florida,

for Petitioner

Robert A. Butterworth, Attorney General and Sue R. Henderson,
Assistant Attorney General, Tampa, Florida,

for Respondent