

# Supreme Court of Florida

**ORIGINAL**

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No. 80,379

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WALTER LEE PEARCE, Petitioner,

VS.

STATE OF FLORIDA, Respondent.

[April 15, 1993]

OVERTON, J.

We have for review Pearce v. State, 603 So, 2d 1282 (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. Apr. 8, 1993).<sup>1</sup> In accordance with our decision in

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<sup>1</sup> We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

Johnson, we quash the decision of the district court in the instant case and remand this cause for resentencing.

It is so ordered.

BARKETT, C.J., and McDONALD, SHAW, GRIMES, KOGAN and HARDINC, 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 - Direct Conflict of Decisions

Second District - Case No. 92-02783

(Pasco County)

Walter Lee Pearce, Avon Park, Florida,

for Petitioner

Robert A. Butterworth, Attorney General; Peggy A. Quince and  
Donna A. Provonsha-Lentz, Assistant Attorneys General, Tampa,  
Florida,

for Respondent