Supreme Court of Florida

ORGMAL

No. 80,458

EARL JOHNSON CREWS, Petitioner,

vs .

STATE OF FLORIDA, Respondent.

[April 15, 1993]

OVERTON, J.

We have for review <u>Crews v. State</u>, 603 So, 2d 690 (Fla. 2d DCA 1992), in which the district court addressed the same question we recently answered in <u>Johnson v. State</u>, Nos. 79,150 & 79,204 (Fla. Apr. 8, 1993). In accordance with our decision in

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

<u>Johnson</u>, 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 HARDING, 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. 91-03212 (Polk County)

James Marion Moorman, Public Defender; Cynthia J. Dodge, Assistant Public Defender, Bartow, Florida,

for Petitioner

Robert A. Butterworth, Attorney General; Peggy A. Quince and Susan D. Dunlevy, Assistant Attorney Generals, Tampa, Florida,

for Respondent