Supreme Court of Florida

OM CMA6

No. 80,488

BENNIE LEE PEARSON,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

[April 8, 1993]

PER CURIAM.

We have for review <u>Pearson v. State</u>, 603 So. 2d 676 (Fla. 3d DCA 1992), based on express and direct conflict with <u>Lamont v. State</u>, 610 So. 2d 435 (Fla. 1992). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const. The opinion below is quashed to the extent it is inconsistent with <u>Lamont</u> and remanded for reconsideration.

It is so ordered.

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

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION $\ensuremath{\mathsf{AND}},$ If filed, determined.

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

Third District - Case No. 90-2148 (Dade County)

Bennett H. Brummer, Public Defender and Sheryl J. Lowenthal, Special Appointed Public Defender, Coral Gables, Florida,

for Petitioner

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for Respondent