

Supreme Court of Florida

COPY

No. 93,540

STATE OF FLORIDA,
Petitioner,

vs.

TERRY L. JOYCE,
Respondent.

[May 20, 1999]

SHAW, J.

We have for review Joyce v. State, 713 So. 2d 1053 (Fla. 2d DCA 1998), based on conflict with State v. Thompson, No. 92,254 (Fla. May 20, 1999). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

Joyce pleaded guilty to numerous criminal charges and was sentenced as an habitual offender. The district court reversed the sentences because the trial court failed to explain to Joyce that habitualization could affect his eligibility for early

release. We have since held in Thompson that this is a fact-based issue regarding the voluntariness of the plea and must be raised in the trial court either in a timely motion to withdraw the plea or in a motion for postconviction relief.

Accordingly, we quash Joyce and remand for further proceedings consistent with Thompson and without prejudice to Joyce's right to raise this issue in the trial court via postconviction motion.

It is so ordered.

HARDING, C.J., and WELLS, ANSTEAD, PARIENTE, LEWIS and QUINCE, 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

Second District - Case No. 96-01508

(Hillsborough County)

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for Petitioner

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