

Supreme Court of Florida

No. SC95975

SABINA MARIA VAN TUYN,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[April 27, 2000]

PER CURIAM.

We have for review Van Tuyn v. State, 736 So. 2d 71 (Fla. 3d DCA 1999), which is a per curiam decision relying solely on Peart v. State, 705 So. 2d 1059 (Fla. 3d DCA 1998), and which certified conflict with Gregersen v. State, 714 So. 2d 1195 (Fla. 4th DCA 1998). We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.

This Court recently held in Peart v. State, 25 Fla. L. Weekly S271 (Fla. Apr.

13, 2000), that a petition for writ of error coram nobis was the proper vehicle for raising a claim that a noncustodial defendant was not advised of the immigration consequences of a plea. We emphasize that all such claims filed subsequent to our decision in Wood v. State, 750 So. 2d 592 (Fla. 1999), must be filed pursuant to a motion under Florida Rule of Criminal Procedure 3.850. See Peart, 25 Fla. L. Weekly at S273. Van Tuyn is quashed as being inconsistent with our decision in Peart.

It is so ordered.

SHAW, ANSTEAD, PARIENTE and LEWIS, JJ., concur.
HARDING, C.J., and WELLS and QUINCE, JJ., dissent.

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 - Certified
Direct Conflict of Decisions

Third District - Case No. 3D98-1429

(Dade County)

Law Offices of Frederick Sake, Miami Beach, Florida, and John H. Lipinski, Miami,
Florida,

for Petitioner

Robert A. Butterworth, Attorney General, and Michael J. Neimand, Assistant Attorney General, Fort Lauderdale, Florida,

for Respondent