

Supreme Court of Florida

No. SC96794

DAVID HERNANDEZ RODRIGUEZ,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[September 7, 2000]

PER CURIAM.

We have for review Rodriguez v. State, 742 So. 2d 422 (Fla. 2d DCA 1999), which is a per curiam decision without opinion citing only to Peart v. State, 705 So. 2d 1059 (Fla. 3d DCA 1998), quashed, 756 So. 2d 42 (Fla. 2000). We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.; Jollie v. State, 405 So. 2d 418, 420 (Fla. 1981).

This Court recently held in Peart v. State, 756 So. 2d 42 (Fla. 2000), that a defendant may seek postconviction relief based on a claim that he or she 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, 756 So.2d at 45. Rodriguez is quashed as being inconsistent with our decision in Peart.

It is so ordered.

SHAW, ANSTEAD, PARIENTE and LEWIS, JJ., concur.
WELLS, C.J., and HARDING 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 -
Direct Conflict

Second District - Case No. 2D98-02185

(Collier County)

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for Petitioner

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for Respondent