

IN THE SUPREME COURT OF THE STATE OF FLORIDA

JEROME SAFFOLD,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

Case No. SC23-1749

Fourth District Court of Appeal Case No. 4D22-2399

RESPONDENT'S BRIEF ON JURISDICTION

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STATEMENT OF THE ISSUES

This case presents the issue of whether a defendant may file a motion to withdraw plea under rule 3.170(f) prior to resentencing. It also presents the issue of whether a motion to withdraw plea prior to resentencing would conflict with the principle of finality.

STATEMENT OF THE CASE AND FACTS

Respondent agrees with Petitioner's statement of the facts but makes the following clarifications and additions:

Petitioner pled guilty to seven counts (P.A. 3).¹ In *Saffold v. State*, 310 So. 3d 55, 57-58 (Fla. 4th DCA 2021), the Fourth District, although having reversed other counts for correction, only directed resentencing on Counts IV and V (P.A. 4).

Therefore, in the underlying appeal, the Fourth District noted that even if Petitioner could have moved to withdraw his plea prior to resentencing, he could have done so only on Counts IV and V (P.A. 8). Petitioner would still have been sentenced on Count I to life in prison with a twenty-five-year mandatory minimum term (P.A. 8).

¹ "P.A." denotes Petitioner's Appendix and is followed by the pdf number.

The Fourth District ruled that to allow a defendant to move to withdraw a plea pursuant to rule 3.170(f) prior to resentencing would conflict with the principle of finality (P.A. 7). It relied on the reasoning articulated in *Campbell v. State*, 125 So. 3d 733 (Fla. 2013), in which this Court considered whether a motion to withdraw plea could be considered under rule 3.170(g) where the trial court had not formally accepted the plea but had adjudicated and sentenced the defendant (P.A. 7).

ARGUMENT

THIS COURT HAS JURISDICTION TO REVIEW THE
CERTIFIED CONFLICT BUT MAY NOT WISH TO
EXERCISE ITS DISCRETION.

This Court may review any decision that is certified by a district court of appeal to be in conflict with a decision of another district court of appeal. Art. V, § 3(b)(4), Fla. Const. Here, the Fourth District certified conflict with *Scott v. State*, 331 So. 3d 297, 301 (Fla. 2d DCA 2021) (P.A. 9).

Respondent acknowledges that the holding of the instant opinion conflicts with the holding of *Scott*. The Fourth District explicitly disagreed with the reasoning in *Scott* that because the article “a” is used before “sentence” in rule 3.170(f), Florida Rules of

Criminal Procedure, the rule applies to any sentence (P.A. 5, 6). The Fourth District posited that if the Legislature intended the rule to apply to any sentence than it would have used the article “any” (P.A. 6). See *N&L Auto Parts Co. v. Doman*, 117 So. 2d 410, 412 (Fla. 1960)(“The question of a conflict is of concern to this Court only in those cases where the opinion and judgment of the district court announces a principle or principles of law that are in conflict with a principle or principles of law of another district court or this Court.”).

Despite the presence of conflict, this Court may not wish to exercise its discretion. First, Petitioner could have only withdrawn his plea on Counts IV and V (P.A. 4, 8). Petitioner would still be required to serve the life sentence with a twenty-five-year minimum mandatory term on Count I (P.A. 8).

Second, the Fourth District considered the principle of finality as discussed in this Court’s opinion in *Campbell v. State*, 125 So. 3d 733 (Fla. 2013)(P.A. 7-8). In *Campbell*, in deciding that the defendant could not move to withdraw his plea under a different subsection of rule 3.170 years after his conviction and sentence, this Court stressed the importance of finality and the need for litigation to come to an end. *Campbell*, 125 So. 3d at 742. The court in *Scott* did not

consider the principle of finality or *Campbell*. Moreover, unlike the Fourth District in this case, the court in *Scott* did not recognize that rule 3.170(f) allows withdraw of plea under a liberal standard, good cause or in the trial court's discretion, rather than the more stringent standard of manifest injustice which typically applies when a defendant has already been sentenced (P.A. 6).

CONCLUSION

Based on the foregoing arguments and authorities cited herein, the State respectfully requests this Honorable Court decline to exercise discretionary jurisdiction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing was served via Florida's e-Filing Portal on Timothy Wang, Assistant Public Defender 421 Third Street, West Palm Beach, FL 33401, twang@pd15.state.fl.us, appeals@pd15.org, on January 11, 2024.

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CERTIFICATE OF COMPLIANCE

I hereby certify that this brief was computer generated using 14-point Bookman Old font and complies with the applicable word count.

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