

IN THE SUPREME COURT OF FLORIDA

DALVIN LORENZO DENSON,

Petitioner,

v.

Case No. SC14-1834

STATE OF FLORIDA,

Respondent.

STATE'S RESPONSE TO THIS COURT'S ORDER TO SHOW CAUSE

RESPONDENT, the State of Florida (hereinafter State), responds to this Court's Order to Show Cause of January 20, 2017.

In its Order to Show Cause, this Court directed the State to show cause:

why this Court should not accept jurisdiction in this case, summarily quash the decision being reviewed, and remand this case to the district court for reconsideration in light of our decisions in Walton v. State, 2016 WL 7013855 (Fla. Dec. 1, 2016); Williams v. State, 186 So. 3d 989 (Fla. 2016).

(Ord. of January 20, 2017).

After a jury trial, Petitioner was convicted of two counts of attempted first degree felony murder, two counts of attempted second degree murder, attempted armed robbery, and carrying a concealed firearm for an incident that occurred on September 1, 2011. (R.I-67-75) Petitioner was sentenced in counts one and two (attempted first degree felony murder) to life in prison, with 25 years minimum mandatory. On count three (attempted armed robbery), he was sentenced to 25 years in prison, with a 25 year minimum mandatory.

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On count six (concealed firearm), he was sentenced to 5 years in prison. The court ruled that the sentences for counts 1,2, and 6 were to run concurrently and the sentence for count 3 was to run consecutively. It also ordered that the 25 year mandatory minimum in counts 1,2, and 3 were to run consecutively to each other. The court did not sentence Petitioner on counts four and five (the two attempted second degree murder charges), as that would have constituted an illegal sentence. (R.I-164-73)

The State agrees that this case is controlled by Walton and that it should be remanded to the district court for reconsideration. In Walton, this Court stated as follows:

First, the First District erred in concluding that the 10-20-Life statute required Walton's sentences to be imposed consecutively, irrespective of whether Walton fired, carried, or displayed a firearm. We recently addressed this issue in Williams v. State, 186 So. 3d 989 (Fla. 2016). We reiterated that "consecutive sentencing of mandatory minimum imprisonment terms for multiple firearm offenses is impermissible if the offenses arose from the same criminal episode and a firearm was merely possessed but not discharged." Id. at 993. Accordingly, we quash the First District's opinion to the extent it is inconsistent with Williams.

Id. at *2.

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to the following by electronic mail on January 31, 2017: Kathleen Stover, Esquire, at Kathleen.stover@flpd2.com.

Respectfully submitted and certified,
PAMELA JO BONDI
ATTORNEY GENERAL

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