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IN THE SUPREME COURT OF FLORIDA

ROBERT R. MILLER,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

Case No. SC15-5

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 kidnapping in count one, with a specific finding that he actually possessed a firearm, aggravated battery in count two, with a specific finding that he actually possessed a firearm, and possession of a firearm by a convicted felon in count three, with a specific finding that he actually possessed a firearm based on an incident that occurred on March 29, 2013. (R.I-67-69, R.IV-497-512) Petitioner was determined to be a habitual felony offender (HFO) and was

sentenced as an HFO on count one to 20 years in prison, with a mandatory minimum of 10 years. On count two, he was sentenced as an HFO to 10 years in prison, with a mandatory minimum of 10 years. On count three, he was sentenced as an HFO to 5 years in prison, with a mandatory minimum of 3 years in prison. The sentences, including the mandatory minimums, were all consecutive. (R.I-70-78, 133-44)

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: Pamela Presnell, Esquire, at pam.presnell@flpd2.com.

Respectfully submitted and certified,
PAMELA JO BONDI
ATTORNEY GENERAL

/s/ Jennifer J. Moore

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