

IN THE DISTRICT COURT OF APPEAL
FOURTH DISTRICT OF FLORIDA

ZACHARY JOSEPH PENNA,) No. 4D20-345
Appellant/Respondent,)
)
v.)
)
STATE OF FLORIDA,)
Appellee/Petitioner.)
_____)

**NOTICE TO INVOKE DISCRETIONARY JURISDICTION OF
THE FLORIDA SUPREME COURT**

NOTICE IS GIVEN that Appellee, the State of Florida, invokes the Florida Supreme Court's discretionary jurisdiction to review the decision of this court rendered March 9, 2022. *See Penna v. State*, 47 Fla. L. Weekly D19 (Dec. 22, 2021), question certified on rehearing (Fla. 4th DCA Mar. 9, 2022). The decision passed upon a question certified as one of great public importance. Art. V, § 3(b)(4), Fla. Const.

Dated: April 8, 2022

/s/ Evan Ezray

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Attorney General

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Solicitor General

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Counsel for State of Florida

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was served via the e-filing portal to Paul Edward Petillo, Assistant Public Defender at *appeals@pd15.state.fl.us*, *ppetillo@pd15.org*, and *mroberts@pd15.org*, on this **eighth** day of April 2022.

/s/ *Evan Ezray*
EVAN EZRAY
Deputy Solicitor General

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT

ZACHARY JOSEPH PENNA,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D20-345

[March 9, 2022]

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Caroline C. Shepherd, Judge; L.T. Case No. 502016CF006304A.

Carey Haughwout, Public Defender, and Paul Edward Petillo, Assistant Public Defender, West Palm Beach, for appellant.

Ashley Moody, Attorney General, Henry C. Whitaker, Solicitor General, Jeffrey Paul DeSousa, Chief Deputy Solicitor General, and Evan Ezray, Deputy Solicitor General, Tallahassee, for appellee.

**ON APPELLEE'S MOTION FOR CERTIFICATION OF A QUESTION OF
GREAT PUBLIC IMPORTANCE OR REHEARING EN BANC**

GERBER, J.

After consideration of the state's motion for certification of a question of great public importance, and the defendant's response thereto, we grant the state's motion for certification of a question of great public importance. We certify to the Florida Supreme Court the following question of great public importance:

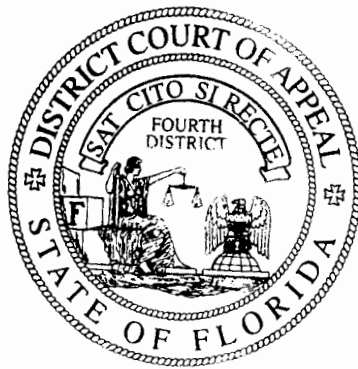
WHETHER A DEFENDANT'S FIFTH AMENDMENT *MIRANDA* RIGHTS ARE AUTOMATICALLY VIOLATED WHEN AN OFFICER FAILS TO RE-READ A *MIRANDA* WARNING FOLLOWING A DEFENDANT'S VOLUNTARY RE-INITIATION OF CONTACT.

In view of our having certified the state's requested question of great public importance, the state's alternative motion for rehearing en banc, which requested the same certification, is denied as moot.

WARNER and ARTAU, JJ., concur.

* * *

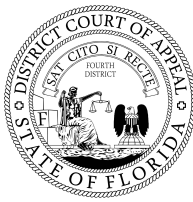
No further motion for rehearing shall be filed.



I hereby ~~certify that the above and foregoing~~ is a true copy of instrument filed in my office.

Lonn Weissblum, CLERK
DISTRICT COURT OF APPEAL OF
FLORIDA, FOURTH DISTRICT

Per Kristen Amaro
Deputy Clerk



**FOURTH DISTRICT COURT OF APPEAL
110 SOUTH TAMARIND AVENUE
WEST PALM BEACH, FLORIDA 33401
(561) 242-2000**

Date: _____

Case Name: _____

Case No: 4D _____

Trial Court No.: _____

Trial Court Judge: _____

Dear Mr. Tomasino:

Attached is a certified copy of a Notice to Invoke Discretionary Jurisdiction/Notice of Appeal to the Supreme Court of Florida pursuant to Rule 9.120, Florida Rules of Appellate Procedure. Attached also is this Court's opinion or decision relevant to this case.

The filing fee prescribed by Section 25.241(3), Florida Statutes, was received by this court and will be mailed.

The filing fee prescribed by Section 25.241(3), Florida Statutes, was not received by this court.

Petitioner/Appellant has been previously determined insolvent by the circuit court or our court.

Petitioner/Appellant has already filed, and this court has granted, petitioner/appellant's Motion to proceed without payment of costs in this case.

Petitioner/Appellant filed Notice via EDCA and the fee has not been received by this court.

No filing fee is required in the underlying case in this court because it was:

A Summary Appeal (Rule 9.141)

From the Unemployment Appeals Commission

A Habeas Corpus Proceeding

A Juvenile Case

Other – _____

If there are any questions regarding this matter, please do not hesitate to contact this Office.

Sincerely,

LONN WEISSBLUM
Clerk of the Court

By: _____
Deputy Clerk