

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

JAMES MARTIN,

Appellant,

CASE NO. 1D08-6314

v.

STATE OF FLORIDA,

Appellee.

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Opinion filed September 14, 2009.

An appeal from the Circuit Court for Duval County.  
Charles W. Arnold, Judge.

Nancy A. Daniels, Public Defender, Richard M. Summa, Assistant Public  
Defender, Tallahassee, for Appellant.

Bill McCollum, Attorney General, Thomas H. Duffy, Assistant Attorney General,  
Tallahassee, for Appellee.

PER CURIAM.

At issue in this appeal is whether the trial court erred in failing to appoint  
conflict-free counsel to represent Appellant on his motion to withdraw plea before  
sentencing. As the State properly concedes, Appellant and his public defender had

an apparent conflict of interest, and the trial court erred in not appointing conflict-free counsel to represent Appellant on the motion. See Zeiszler v. State, 765 So. 2d 128 (Fla. 1st DCA 2000); Holifield v. State, 717 So. 2d 69 (Fla. 1st DCA 1998); Roberts v. State, 670 So. 2d 1042 (Fla. 4th DCA 1996). Accordingly, we reverse the trial court's denial of Appellant's motion to withdraw plea and remand the case for the appointment of conflict-free counsel and reconsideration of the motion.

REVERSED and REMANDED.

WOLF, PADOVANO, and THOMAS, JJ., CONCUR.