

IN THE SECOND DISTRICT COURT OF APPEAL, LAKE LAND, FLORIDA

EMANUEL JOHNSON,)
)
 Appellant,)
)
 v.)
)
 STATE OF FLORIDA,)
)
 Appellee.)
 _____)

Case No. 2D10-5481

Opinion filed May 13, 2011.

Appeal from the Circuit Court for
Sarasota County; Andrew D. Owens,
Judge.

Bill Jennings, Capital Collateral Regional
Counsel, and Mark S. Gruber and Maria
Perinetti, Assistant Capital Collateral
Regional Counsel, Middle Region,
Tampa, for Appellant.

Pamela Jo Bondi, Attorney General,
Tallahassee, and Katherine Vickers
Blanco, Assistant Attorney General,
Tampa, for Appellee.

ORDER ON APPELLEE'S MOTION TO PROHIBIT THE OFFICE OF CAPITAL
COLLATERAL REGIONAL COUNSEL FROM REPRESENTING APPELLANT IN THIS
NONCAPITAL APPEAL

PER CURIAM.

The State of Florida has filed a motion to prohibit the Office of Capital
Collateral Regional Counsel—Middle Region (CCRC) from representing the appellant in
nonsummary postconviction appeal 2D10-5481. We treat the motion as filed in

nonsummary postconviction appeal 2D10-5482 as well, as the two appeals are traveling together. Relying on the Florida Supreme Court's construction of sections 27.7001 et seq., Florida Statutes, in State v. Kilgore, 976 So. 2d 1066 (Fla. 2007), we grant the State's motion. See id. at 1070 ("[W]e conclude that CCRC is not expressly authorized under the applicable statutes to collaterally challenge a noncapital conviction."). CCRC is hereby discharged as appellant's counsel in both appeals.

Within twenty days of this order, the circuit court shall issue an order either appointing public counsel for the appellant or concluding that appointment of counsel is not constitutionally required, see Graham v. State, 372 So. 2d 1363 (Fla. 1979); Rowe v. State, 777 So. 2d 1088 (Fla. 2d DCA 2001), and shall file a copy of the order in this court, with service on the parties.

CASANUEVA, C.J., and KELLY and WALLACE, JJ., Concur.