

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA  
FIFTH DISTRICT

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

JAMES LOPEZ,

Appellant,

v.

Case No. 5D15-2119

STATE OF FLORIDA,

Appellee.

\_\_\_\_\_ /

Opinion filed June 3, 2016

Appeal from the Circuit Court  
for Volusia County,  
Terence R. Perkins, Judge.

James S. Purdy, Public Defender, and Noel  
A. Pelella, Assistant Public Defender,  
Daytona Beach, for Appellant.

Pamela Jo Bondi, Attorney General,  
Tallahassee, and Allison Leigh Morris,  
Assistant Attorney General, Daytona  
Beach, for Appellee.

PER CURIAM.

James Lopez appeals the trial court's denial of his motion to withdraw his plea. Finding Lopez was improperly denied conflict-free counsel for the hearing of that motion, we reverse.

Lopez was charged with a variety of serious offenses in four separate cases. He entered an open plea to those charges and the trial court ordered a pre-sentence

investigation because the State sought sentencing under the Prison Releasee Re-offender statute.

Prior to sentencing, Lopez filed a pro-se motion to withdraw his plea, alleging that his public defender had coerced him into entering the plea. Lopez was entitled to appointment of conflict-free counsel for the hearing on that motion. See Harvey v. State, 4 So. 3d 1266, 1267 (Fla. 5th DCA 2009).

REVERSED and REMANDED for a new hearing on the motion to withdraw plea.

COHEN, WALLIS and LAMBERT, JJ., concur.