

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

JOSEPH ANDRE NAVARRO,

Appellant,

v.

Case No. 5D21-405
LT Case No. 49-2018-CF-00415

STATE OF FLORIDA,

Appellee.

Opinion filed May 6, 2022

Appeal from the Circuit Court
for Osceola County,
Keith A. Carsten, Judge.

Matthew J. Metz, Public Defender,
and Steven N. Gosney, Assistant
Public Defender, Daytona Beach, for
Appellant.

Ashley Moody, Attorney General,
Tallahassee, and Kaylee D. Tatman,
Assistant Attorney General, Daytona
Beach, for Appellee.

WALLIS, J.

Appellant, Joseph Andre Navarro, appeals the order denying his pro se Motion to Withdraw Plea. He argues that the trial court erred by not appointing counsel to represent him in this proceeding after his privately retained attorney withdrew from the case. The State concedes this point but argues that Appellant would only be entitled to court-appointed counsel if he was indigent at the time that he filed his motion. We agree and reverse for the trial court to determine if Appellant was indigent at the time that he filed or could have filed his motion. If the court determines that Appellant was indigent, it shall set aside the order denying his motion, appoint counsel to assist him in refiling a motion to withdraw plea if he wishes to do so, and conduct a new hearing on Appellant's motion. See Hart v. State, 213 So. 3d 1114, 1115 (Fla. 5th DCA 2017) (holding appellant was entitled to counsel after private counsel withdrew from case and remanding for trial court to appoint counsel if it determined that appellant was indigent at the time he filed pro se motion to withdraw plea).

REVERSED and REMANDED with Instructions.

SASSO and NARDELLA, JJ., concur.