

FIRST DISTRICT COURT OF APPEAL
STATE OF FLORIDA

No. 1D18-4988

BARRY LYNN WILEY, JR.,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

On appeal from the Circuit Court for Escambia County.
Jennie Kinsey, Judge.

May 6, 2020

OPINION ON REMAND FROM THE FLORIDA SUPREME COURT

PER CURIAM.

The Florida Supreme Court has quashed the decision in this case and remanded with instructions that we reconsider the matter in light of its recent decision in *Gaymon v. State*, 288 So. 3d 1087 (Fla. 2020).

In *Gaymon*, the Florida Supreme Court held that “the proper remedy for harmful error resulting from the court, not the jury, finding the fact of dangerousness under section 775.082(10) is to remand for resentencing with instructions to either impose a nonstate sanction of up to one year in county jail or empanel a jury to make the determination of dangerousness, if requested by the State.” *Id.* at 1089–90.

Accordingly, we reverse Appellant's sentence and remand to the trial court for resentencing in accordance with *Gaymon*.

REVERSED and REMANDED.

ROBERTS, OSTERHAUS, and M.K. THOMAS, JJ., concur.

Not final until disposition of any timely and authorized motion under Fla. R. App. P. 9.330 or 9.331.

Andy Thomas, Public Defender, and Megan Long, Assistant Public Defender, Tallahassee, for Appellant.

Ashley Moody, Attorney General, and Robert Quentin Humphrey, Assistant Attorney General, Tallahassee, for Appellee.