

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
July Term 2014

BRIAN HOOKS,
Petitioner,

v.

STATE OF FLORIDA,
Respondent.

No. 4D13-3173

[November 19, 2014]

Petition for writ of habeas corpus to the Circuit Court for the Seventeenth Judicial Circuit, Broward County; Cynthia G. Imperato, Judge; L.T. Case No. 06-878 CF10A.

Jason T. Forman of Law Offices of Jason T. Forman, P.A., Fort Lauderdale, for petitioner.

Pamela Jo Bondi, Attorney General, Tallahassee, and Jeanine M. Germanowicz, Assistant Attorney General, West Palm Beach, for respondent.

PER CURIAM.

The petition for writ of habeas corpus is granted. *See Francois v. State*, No. 4D14-1558, 2014 WL 5460633 (Fla. 4th DCA Oct. 29, 2014) (granting an ineffective appellate counsel petition where counsel failed to request certification of conflict or a citation to our decision in *Williams v. State*, 40 So. 3d 72 (Fla. 4th DCA 2010)). In the direct appeal, Petitioner's appellate counsel argued that there was fundamental error in the jury instruction. We affirmed without certifying a conflict or providing a citation. *Hooks v. State*, 82 So. 3d 905 (Fla. 4th DCA 2011). This prevented petitioner from obtaining relief following the Florida Supreme Court's decision resolving the conflict between District Courts in *Williams v. State*, 123 So. 3d 23 (Fla. 2013). We agree with Petitioner that it would be manifestly unjust to deny him the same remedy that has been afforded to other similarly-situated defendants. *See Walden v. State*, 39 Fla. L. Weekly D2069 (Fla. 4th DCA Oct. 1, 2014) (granting habeas corpus where this court failed to

certify the conflict or provide a citation as had been requested by appellate counsel).

We vacate the attempted second-degree murder convictions and remand for a new trial on those charges.

WARNER, FORST, and KLINGENSMITH, JJ., concur.

* * *

Not final until disposition of timely filed motion for rehearing.