

DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FOURTH DISTRICT
January Term 2011

VINCENT J. PUGLISI,
Appellant,

v.

STATE OF FLORIDA,
Appellee.

No. 4D08-3056

[March 30, 2011]

**ON MOTION FOR REHEARING AND SUGGESTION
OF CERTIFICATION OF CONFLICT**

PER CURIAM.

We deny appellant's motion for rehearing, but we grant his motion for certification of conflict. To the extent our slip opinion, *Puglisi v. State*, No. 4D08-3056, 2010 WL 5173843 (Fla. 4th DCA Dec. 22, 2010), conflicts with the opinion of the Fifth District Court of Appeal in *Cain v. State*, 565 So. 2d 875 (Fla. 5th DCA 1990), we certify conflict to the Supreme Court of Florida.

WARNER and POLEN, JJ., concur.¹

* * *

Appeal from the Circuit Court for the Fifteenth Judicial Circuit, Palm Beach County; Krista Marx, Judge; L.T. Case No. 06CF001968BMB.

Carey Haughwout, Public Defender, and Tatjana Ostapoff, Assistant Public Defender, West Palm Beach, for appellant (withdrawn as counsel after filing brief).

¹ Judge Farmer could not participate in the rehearing due to his retirement; the chief judge approved the issuance of this opinion with the concurrence of two judges.

Pamela Jo Bondi, Attorney General, Tallahassee, and Sue-Ellen
Kenny, Assistant Attorney General, West Palm Beach, for appellee.