

IN THE DISTRICT COURT OF APPEAL
OF FLORIDA
SECOND DISTRICT

DARRELL BENJAMIN,)
)
Appellant,)
)
v.)
)
STATE OF FLORIDA,)
)
Appellee.)
_____)

Case No. 2D08-5563

Opinion filed February 17, 2010.

Appeal from the Circuit Court for Collier
County; Elizabeth V. Krier, Judge.

James Marion Moorman, Public
Defender, and William L. Sharwell,
Assistant Public Defender, Bartow, for
Appellant.

Bill McCollum, Attorney General,
Tallahassee, and Dawn A. Tiffin,
Assistant Attorney General, Tampa,
for Appellee.

**ORDER STRIKING PRO SE MOTION FOR
REHEARING OR CLARIFICATION**

ALTENBERND, Judge.

Darrell Benjamin filed a pro se motion for rehearing or clarification in this case. This court affirmed the order revoking his probation and the resulting sentence in a decision that issued on December 30, 2009. This motion is timely.

At all relevant times during the pendency of this appeal, Mr. Benjamin has been represented by an experienced appellate attorney. This attorney filed a brief presenting an issue on the merits. This attorney has obviously declined to file a motion for rehearing. Thus, the issue now is whether Mr. Benjamin is authorized to file a pro se motion for rehearing in an appeal where he has legal representation.

In the past, this court has accepted and ruled on motions comparable to Mr. Benjamin's motion. This policy has not been express and probably has not been followed in every case. This policy was established prior to the supreme court's decision in Johnson v. State, 974 So. 2d 363 (Fla. 2008). In Johnson, the supreme court announced a broad rule prohibiting pro se filings of this sort. Id. at 364-65.

This court, sitting in full conference of its active members, concluded in December 2009 that it is inappropriate for this court to have a policy permitting pro se filings in conflict with the policy of the supreme court. We voted to discontinue accepting such filings. Accordingly, this panel publishes this order to give notice that we will no longer accept such filings and will strike such pro se motions as unauthorized in all cases in which the defendant is represented by counsel who has filed a brief on the merits. This court will continue to accept pro se motions for rehearing in cases where counsel has filed an Anders brief.

Accordingly, Mr. Benjamin's motion is stricken as unauthorized.

NORTHCUTT, J., and CASE, JAMES R., ASSOCIATE SENIOR JUDGE, Concur.