

# Supreme Court of Florida

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No. SC14-2110

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**ANTONIO GARRETT,**  
Petitioner,

vs.

**STATE OF FLORIDA,**  
Respondent.

[June 9, 2016]

PER CURIAM.

We initially accepted discretionary review of the decision in Garrett v. State, 148 So. 3d 466 (Fla. 1st DCA 2014). Upon further consideration, we exercise our discretion and discharge jurisdiction. Accordingly, we hereby dismiss this review proceeding.

It is so ordered.

No motion for rehearing will be entertained by the Court. See Fla. R. App. P. 9.330(d)(2).

LABARGA, C.J., and LEWIS, CANADY, POLSTON, and PERRY, JJ., concur.  
PARIENTE, J., dissents with an opinion, in which QUINCE, J., concurs.

PARIENTE, J., dissenting.

I would not discharge jurisdiction because there is conflict with Dorsey v. State, 149 So. 3d 144 (Fla. 4th DCA 2014) and Rios v. State, 143 So. 3d 1167 (Fla. 4th DCA 2014). Instead, I would resolve the conflict and hold that the jury instruction given on justifiable use of deadly force was fundamentally erroneous, and because ineffectiveness of counsel appears on the face of the record, I would quash the decision in Garrett v. State, 148 So. 3d 466 (Fla. 1st DCA 2014), consistent with the approach of the Second District in Dooley v. State, 41 Fla. L. Weekly D992, 2016 WL 1602968 (Fla. 2d DCA Apr. 22, 2016).

QUINCE, J., concurs.

Application for Review of the Decision of the District Court of Appeal - Direct Conflict of Decisions

First District - Case No. 1D13-1074

(Duval County)

Nancy Ann Daniels, Public Defender, Glen Phillip Gifford, Assistant Public Defender, and Megan Lynne Long, Assistant Public Defender, Second Judicial Circuit, Tallahassee, Florida,

for Petitioner

Pamela Jo Bondi, Attorney General, Trisha Meggs Pate, Bureau Chief, and Kathryn Lane, Assistant Attorney General, Tallahassee, Florida,

for Respondent