



Laster v. State

739 So.2d 150 (1999) | Cited 0 times | District Court of Appeal of Florida | August 3, 1999

NOT FINAL UNTIL TIME EXPIRES TO FILE MOTION FOR REHEARING AND DISPOSITION THEREOF IF FILED

An appeal from Circuit Court of Duval County. Henry Davis, Judge.

ON MOTION FOR RECONSIDERATION

Upon our receipt of mandate from the supreme court following the opinion in *State v. Laster*, 24 Fla. L. Weekly S203 (Fla. April 29, 1999), the appellant moved for reconsideration of one aspect of our earlier decision. In *Laster v. State*, 23 Fla. L. Weekly D790 (Fla. 1st DCA March 24, 1998), we affirmed both of the appellant's armed robbery convictions despite his argument that the double jeopardy provisions of the constitution precluded conviction of more than one count of armed robbery under the facts of the case. Thereafter, the appellant's co-defendant, Jeremiah Butler, who was jointly tried with the appellant but before a different jury, secured relief on the same double jeopardy claim. See *Butler v. State*, 711 So. 2d 1183 (Fla. 1st DCA 1998). The appellee appropriately concedes that Butler and the appellant are "identically situated" for purposes of presenting the double jeopardy claim. Accordingly, in the interest of Justice, we now extend the appellant the same relief afforded to Butler. See Fla. R. App. P. 9.140(h). On remand the trial court is directed to vacate the judgment and sentence as to one of the armed robbery counts.

JOANOS, ALLEN and WEBSTER, JJ., CONCUR.

