

Third District Court of Appeal

State of Florida, July Term, A.D. 2008

Opinion filed September 24, 2008.
Not final until disposition of timely filed motion for rehearing.

No. 3D07-3157
Lower Tribunal No. 97-33314

Wallace Johnson,
Appellant,

vs.

The State of Florida,
Appellee.

An Appeal from the Circuit Court for Miami-Dade County, John Schlesinger, Judge.

Samuel J. Rabin, Jr., for appellant.

Bill McCollum, Attorney General, and Rolando A. Soler, Assistant Attorney General, for appellee.

Before GREEN, SHEPHERD, and CORTIÑAS, JJ.

PER CURIAM.

We grant the defendant's petition for belated appeal because, as the State properly concedes, this relief is necessary to prevent a manifest injustice. McKay v. State, 33 Fla. L. Weekly D1743 (Fla. 3d DCA July 9, 2008); Baker v. State, 878 So. 2d 1236 (Fla. 2004).

This court has afforded relief to both of Johnson's co-defendants finding that the court should not have given a principal instruction in connection with the conspiracy counts brought against the men. McKay; Evans v. State, 985 So. 2d 1105 (Fla. 3d DCA 2007). Johnson was convicted solely on two counts of conspiracy; justice requires that he be afforded the same relief. We therefore reverse Johnson's convictions and remand for a new trial on those counts.

Reversed and remanded.