

IN THE DISTRICT COURT OF APPEAL OF THE STATE OF FLORIDA
FIFTH DISTRICT

JULY TERM 2001

DEREK WILSON,
Petitioner,

v.

CASE NO. 5D01-991

STATE OF FLORIDA,
Respondent.

_____ /

Opinion filed July 20, 2001

Petition Alleging Ineffectiveness of
Appellate Counsel,
A Case of Original Jurisdiction.

Lawrence J. Nixon of Lawrence J. Nixon, P.A.,
Daytona Beach, for Petitioner.

Robert A. Butterworth, Attorney General,
Tallahassee, and Lamya A. Henry, Assistant
Attorney General, Daytona Beach,
for Respondent.

PER CURIAM.

Derek Wilson petitions for a new trial¹ alleging ineffective assistance by appellate counsel for failing to raise the same issue on appeal that resulted in the reversal of the conviction of Wilson's co-defendant, Ernest Wilson. Appellate counsel concedes the omission.

We grant the petition, vacate the judgment of conviction and sentence, and remand for a new trial for the same reason set forth in *Wilson v. State*, 746 So. 2d 1209 (Fla. 5th DCA 1999).

PETITION GRANTED.

¹ See Fla. R. App. P. 9.141(c).

HARRIS, PETERSON, and ORFINGER, R. B., J.J., concur.