

HILL, Senior Circuit Judge, specially concurring:

I concur because:

- (1) In United States v. Burke, 113 F.3d 211, our court adopted the reasoning of the Fourth Circuit (per J. Wilkins) in United States v. Pierce, 75 F.3d 173 which aligns us with the approach taken by the district judge in the case, and
- (2) the district court did, in sentencing, what ought to have been done for the good of the public, the victims and the defendant.

Yet, I am less than satisfied that, in doing the right thing here, we are doing what we should do. Florida law is “assimilated” into federal law in this case. The district judge found Florida law inadequate to the task before him. He did what federal judges have done in these “assimilated” cases with inadequate state law in the past – the state law is found to be in “. . . conflict with federal sentencing policy,” so it is dis- assimilated, so to speak, and replaced. Perhaps the Congress meant for this to be the law. See footnote 5 of our opinion. I hope so.