****

The ''officially released'' date that appears near the beginning of each opinion is the date the opinion will be published in the Connecticut Law Journal or the date it was released as a slip opinion. The operative date for the beginning of all time periods for filing postopinion motions and petitions for certification is the ''officially released'' date appearing in the opinion. In no event will any such motions be accepted before the ''officially released'' date.

All opinions are subject to modification and technical correction prior to official publication in the Connecticut Reports and Connecticut Appellate Reports. In the event of discrepancies between the electronic version of an opinion and the print version appearing in the Connecticut Law Journal and subsequently in the Connecticut Reports or Connecticut Appellate Reports, the latest print version is to be considered authoritative.

****

FLYNN, J., dissenting. I respectfully disagree with and dissent from the majority's decision automatically reversing the defendant's conviction without a showing of harm to him.

"In its recent decision in *Mickens* v. *Taylor*, [535 U.S. 162, 166, 122 S. Ct. 1237, 152 L. Ed. 2d 291 (2002)], the United States Supreme Court reaffirmed the general rule that, in order to demonstrate a sixth amendment violation based on the trial court's failure to inquire into a potential conflict of interest about which it knew or should have known, a defendant *must establish* that the conflict of interest adversely affected his counsel's performance." (Emphasis added.) *State* v. *Parrott*, 262 Conn. 276, 287, 811 A.2d 705 (2003). Ordinarily, this cannot be established by direct appeal but only by way of habeas corpus. *State* v. *Crespo*, 246 Conn. 665, 687–88, 718 A.2d 925 (1998), cert. denied, 525 U.S. 1125, 119 S. Ct. 911, 142 L. Ed. 2d 909 (1999).

I concede that there is an exception to this general rule creating a presumption that harm occurred to the defendant. Compare *Holloway* v. *Arkansas*, 435 U.S. 475, 98 S. Ct. 1173, 55 L. Ed. 2d 426 (1978). However, that exception exists only in cases of dual representation by one attorney of more than one defendant in the same case. That did not occur. Accordingly, I do not agree that the *Holloway* exception should be allowed to subsume the general rule.

For that reason, I dissent.