

Supreme Court of Florida

No. 72,844

CONSOLIDATED AMERICAN
INSURANCE COMPANY, INC., Petitioner,

vs.

CHARLES BUCOLO, Respondent.

[May 25, 1989]

SHAW, J.

We have for review Consolidated American Insurance Co., Inc. v. Bucolo, 526 So.2d 147 (Fla. 3d DCA 1980), based upon conflict with United States Fidelity and Guaranty Co. v. American Fire and Indemnity Co., 511 So.2d 624 (Fla. 5th DCA 1987). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

Petitioner provided homeowners' insurance to respondent's mother which specifically excluded coverage for intentional acts by an insured. Respondent, who was an insured relative under the policy, was sued for committing sexual assaults during the period he lived in the home. The trial court ruled that petitioner had not timely asserted a coverage defense under section 627.426(2), Florida Statutes (1985). The district court affirmed, citing AIU Insurance Co. v. Block Marina Investment, Inc., 512 So.2d 1118 (Fla. 3d DCA 1987), where the court certified direct conflict with United States Fidelity and Guaranty Co.

We quash the decision of the district court and remand for proceedings consistent with AIU Insurance Co. v. Block Marina Investment, Inc., No. 71,264 (Fla. April 27, 1989).

It is so ordered.

EHRlich, C.J., and OVERTON, McDONALD, BARKETT, GRIMES and KOGAN, JJ., Concur

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

Application for Review of the Decision of the District Court of
Appeal - Constitutional Construction

Third District - Case No. 87-1035
(Dade County)

G. Bart Billbrough of Walton, Lantaff, Schroeder & Carson, Miami,
Florida,

for Petitioner

Caron Balkany, P.A., Coral Gables, Florida; and Elizabeth Koebel
Clarke of Daniels and Hicks, P.A., Miami, Florida,

for Respondent