

Supreme Court of Florida

ORIGINAL

No. 77,570

MILDRED R. JAYE, Petitioner,

vs.

ROYAL SAXON, Inc., Respondent.

[October 29, 1992]

HARDING, J.,

We have for review Jaye v. Royal Saxon, Inc., 573 So. 2d 425 (Fla. 4th DCA 1991), in which The Fourth District Court of Appeal certified the following question as one of great public importance:

WHETHER CATE V. OLDHAM APPLIES TO PRIVATE LITIGANTS, TO BAR A SUBSEQUENT ACTION FOR MALICIOUS PROSECUTION WHERE THE PLAINTIFF HAS PREVIOUSLY ELECTED TO TAX COSTS AND/OR FEES AFTER SUCCESSFULLY DEFENDING THE UNDERLYING ACTION?

Id. at 426. We answer the certified question in the negative based on our opinion in Londono v. Turkey Creek, Inc., No. 76,765 (Fla. Oct. 29, 1992). Accordingly, we quash the decision below and remand for proceedings consistent with this Court's decision in Londono.

It is so ordered.

BARKETT, C.J., and OVERTON, McDONALD, SHAW, 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 - Certified Great Public Importance

Fourth District - Case No. 89-3246

(Palm Beach County)

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