

# Supreme Court of Florida

**ORIGINAL**

---

No. 79,406

---

HERNANDO RESTREPO, Petitioner,

vs.

FIRST UNION NATIONAL BANK OF FLORIDA, Respondent.

[April 1, 1993]

CORRECTED OPINION

PER CURIAM.

We have for review Restrepo v. First Union National Bank, 591 So. 2d 1157 (Fla. 3d DCA 1992), in which the Third District Court of Appeal certified the following question as one of great public importance:

"WHETHER A DISTRICT COURT OF APPEAL HAS JURISDICTION TO ENTERTAIN AN APPEAL FROM A FINAL JUDGMENT OF A CIRCUIT COURT WHERE, AS HERE, (1) THE APPELLANT ERRONEOUSLY FILES A NOTICE OF APPEAL WITH THE DISTRICT COURT, RATHER THAN THE CIRCUIT COURT, AND (2) THE APPELLANT TAKES NO

CORRECTIVE ACTION TO FILE THE NOTICE OF APPEAL  
IN THE CIRCUIT COURT WITHIN THIRTY DAYS OF THE  
RENDITION OF THE FINAL JUDGMENT."

Id. at 1157 (quoting Alfonso v. State Department of Environmental Regulation, 588 So. 2d 1065, 1065 (Fla. 3d DCA 1991)). We have jurisdiction based on article V, section 3(b)(4) of the Florida Constitution. We answered the certified question in the affirmative in Alfonso v. State Department of Environmental Regulations, No. 79,096 (Fla. April 1, 1993). Accordingly, we quash the decision of the district court and remand for proceedings consistent with this opinion and Alfonso.

It is so ordered.

BARKETT, C.J., and OVERTON, SHAW, GRIMES, KOGAN and HARDING, JJ.,  
concur.  
McDONALD, J., *dissents*.

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

Third District - Case No. 91-2002

(Dade County)

Kevin S. Opolka and Stephanie B. Rogers of the Law Office of  
Lester M. Rogers, Miami, Florida,

for Petitioner

Karen H. Curtis of Shutts & Bowen, Miami, Florida,

for Respondent