

Supreme Court of Florida

ORIGINAL

No. 82,964

JOSEPH P. FARINA, JUDGE, etc., Petitioner,

vs.

MIGUEL PEREZ, JR., Respondent.

[November 3, 1994]

KOGAN, J.

We have for review Perez v. Farina, 630 So. 2d 1165 (Fla. 2d DCA 1993), in which the district court certified the following question as being of great public importance:

Whether the holding of State v. Agee, 622 So. 2d 473 (Fla. 1993) applies when the prosecution is terminated by a voluntary dismissal before an indictment or information rather than a "nolle prosequere" filed after an information or indictment?

Id. We have jurisdiction pursuant to article V, section 3(b)(4) of the Florida Constitution.

The decision under review is consistent with our recent decision in Genden v. Fuller, No. 83,030 (Fla. Nov. 3, 1994),

wherein we answered the same question in the affirmative.

Accordingly, we approve the decision below.

It is so ordered.

GRIMES, C.J., and HARDING and ANSTEAD, JJ., concur.
WELLS, J., dissents with an opinion, in which OVERTON and SHAW,
JJ., concur.

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

WELLS, J., dissenting.

I dissent for the reasons stated in my dissenting opinion in Genden v. Fuller, No. 80,030 (Fla. Nov. 3, 1994).

OVERTON and SHAW, JJ., concur.

Application for Review of the Decision of the District Court of
Appeal - Certified Great Public Importance
Third District - Case No. 93-2141

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