

Supreme Court of Florida

No. 87,238

OTIS MCCALISTER,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

[November 7, 1996]

PER CURIAM.

We have for review McCalister v. State, 664 So. 2d 1149 (Fla. 3d DCA 1995), which expressly and directly conflicts with the opinion in Montague v. State, 656 So. 2d 508 (Fla. 2d DCA 1995). We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

We recently quashed the decision in Montague and held that a contemporaneous objection is necessary to preserve a Karchesky error for appellate review. State v. Montague, No. 86,098 (Fla. Oct. 31, 1996). Therefore, we approve the decision below.

It is so ordered.

KOGAN, C.J., and OVERTON, SHAW, GRIMES, HARDING, WELLS and ANSTEAD, 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 - Direct Conflict of Decisions
Third District - Case No. 93-1945

(Dade County)

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for Petitioner

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