

# Supreme Court of Florida

FERNANDO J. DIFILIPPO, et al.,  
Petitioners,

vs.

WANDA RAYLE, etc., et al.,  
Respondents.

No. 87,706

[December 19, 1996]

PER CURIAM.

We accepted jurisdiction to review Difilippo v. Rayle, 669 So. 2d 306 (Fla. 3d DCA 1996), because the district court affirmed with citation to its prior decision in Cerniglia v. Cerniglia, 655 So. 2d 172 (Fla. 3d DCA 1995), which was pending review in this Court. Art. V, § 3(b)(3), Fla. Const.; see also Jollie v. State, 405 So. 2d 418 (Fla. 1981).

However, we have since approved the Cerniglia decision. Cerniglia v. Cerniglia, 679 So. 2d 1160 (Fla. 1996). Thus, because the decision below is consistent with our decision in Cerniglia, we deny the petition for review for lack of jurisdiction.

No motion for rehearing will be entertained by the Court. Fla. R. App. P. 9.330(d).

It is so ordered.

OVERTON, SHAW, GRIMES, HARDING,  
WELLS and ANSTEAD, JJ., concur.

Application for Review of the Decision of the

District Court of Appeal - Direct Conflict of  
Decisions  
Third District - Case No. 95-1492

(Dade County)

Donnal S. Mixon and William M. Richardson,  
Jr. of Donnal s. Mixon, P.A., Coral Gables,  
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for Petitioners

Beth Tyler Vogelsang the the Vogelsang Law  
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for Respondent