

Supreme Court of Florida

GERARDO PLAZA,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

No. 91,622

[August 20, 1998]

PER CURIAM.

We accepted review of Plaza v. State, 699 So. 2d 289 (Fla. 3d DCA 1997), on the basis of express and direct conflict with the decisions in Melbourne v. State, 679 So. 2d 759 (Fla. 1996), and State v. Johans, 613 So. 2d 1319 (Fla. 1993). See Art. V, § 3(b)(3), Fla. Const. However, after hearing oral argument, we have determined that jurisdiction was improvidently granted. Accordingly, the petition for review is hereby dismissed.

It is so ordered.

HARDING, C.J., and OVERTON, SHAW,
KOGAN, WELLS and PARIENTE, JJ.,
concur.

ANSTEAD, J., dissents.

NO MOTION FOR REHEARING WILL BE
ALLOWED.

Application for Review of the Decision of the
District Court of Appeal - Direct Conflict of
Decisions

Third District - Case No. 96-2199

(Dade County)

Bennett H. Brummer, Public Defender, and
Louis K. Nicholas II, Special Assistant Public
Defender, Eleventh Judicial Circuit, Miami,
Florida,

for Petitioner

Robert A. Butterworth, Attorney General, and
Douglas Gurnic, Assistant Attorney General,
Fort Lauderdale, Florida,

for Respondent