

J.B., a child,
Petitioner,
vs.
STATE OF FLORIDA,
Respondent.
No. 93,823

[March 18, 1999]

PER CURIAM.

We have for review J.B. v. State, 715 So. 2d 1144 (Fla. 5th DCA 1998), based on conflict with E.D.P. v. State, 23 Fla. L. Weekly D348 (Fla. 1st DCA Jan. 27, 1998), quashed, 23 Fla. L. Weekly S524 (Fla. Oct. 8, 1998), and other cases. ⁽¹⁾ We have jurisdiction. Art. V, § 3(b)(3), Fla. Const. We approve J.B.

The issue raised in the instant conflict is controlled by our recent decision in State v. E.D.P., 23 Fla. L. Weekly S524 (Fla. Oct. 8, 1998)(reviewing the conflict case cited above), wherein the First District certified the following question of great public importance:

DOES THE TRIAL JUDGE, ACTING AFTER A DISPOSITION HEARING AND BASED ON SPECIFIC REASONS, HAVE AUTHORITY TO REJECT THE DEPARTMENT [OF JUVENILE JUSTICE]'S COMMUNITY CONTROL RECOMMENDATION WITHOUT REMANDING THE CASE TO THE DEPARTMENT FOR AN ALTERNATIVE RECOMMENDATION?

We answered the question in the affirmative and quashed the First District's opinion. Id.

In accordance with our decision in E.D.P., we approve J.B. On October 8, 1998, this Court disapproved R.A.M. and S.R. to the extent they are inconsistent with E.D.P. See D.L.B. v. State, 720 So. 2d 202 (Fla. 1998).

It is so ordered.

HARDING, C.J., and SHAW, WELLS, LEWIS and QUINCE, JJ., concur.

PARIENTE, J., concurs with an opinion, in which ANSTEAD, J., concurs.

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

PARIENTE, J., concurring.

I concur in the result because we are bound by our decision in State v. E.D.P., 23 Fla. L. Weekly S524 (Fla. Oct. 8, 1998). However, I continue to agree with Justice Anstead's well-reasoned dissent in E.D.P.

ANSTEAD, J., concurs.

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

Fifth District - Case No. 97-3028

(Orange County)

James B. Gibson, Public Defender, and Leonard R. Ross, Assistant Public Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Petitioner

Robert A. Butterworth, Attorney General, and Robin A. Compton, Assistant Attorney General, Daytona Beach, Florida,

for Respondent

FOOTNOTES:

1. R.A.M. v. State, 695 So. 2d 1308 (Fla. 1st DCA), approved on other grounds sub nom., State v. T.M.B., 716 So. 2d 269 (Fla. 1998), and S.R. v. State, 683 So. 2d 576 (Fla. 1st DCA 1996).

