

Supreme Court of Florida

No. SC11-1179

JEFFREY FAWDRY,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[May 22, 2014]

LEWIS, J.

We have for review Fawdry v. State, 70 So. 3d 626, 627 (Fla. 1st DCA 2011), in which the First District Court of Appeal affirmed a trial court order that denied a motion to suppress evidence found on a cellular phone without a search warrant. The First District certified the following question as one of great public importance:

DOES THE HOLDING IN U.S. v. ROBINSON, 414 U.S. 218 (1973) ALLOW A POLICE OFFICER TO SEARCH THROUGH PHOTOGRAPHS CONTAINED WITHIN A CELL PHONE WHICH IS ON AN ARRESTEE'S PERSON AT THE TIME OF A VALID ARREST?

Id. at 630-31. We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

We stayed proceedings in this case pending the disposition of Smallwood v. State, 113 So. 3d 724 (Fla. 2013). When Smallwood became final, we issued an order directing Respondent to show cause why this Court should not accept jurisdiction, summarily quash the decision in Fawdry, and remand for reconsideration in light of the decision in Smallwood. Respondent filed a response, but Petitioner did not reply.

Upon consideration of the response, we grant the petition for review, quash the decision in Fawdry, and remand this case to the First District Court of Appeal for further proceedings consistent with the decision in Smallwood.

It is so ordered.

POLSTON, C.J., and PARIENTE, QUINCE, LABARGA, and PERRY, JJ.,
concur.
CANADY, J., dissents.

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 - Certified
Great Public Importance

First District - Case No. 1D10-896

(Duval County)

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