

Supreme Court of Florida

No. SC03-2104

STATE OF FLORIDA,
Petitioner,

vs.

ELDRICK WENDALL WOODING,
Respondent.

[October 12, 2006]

PER CURIAM.

We have for review State v. Wooding, 858 So. 2d 334 (Fla. 3d DCA 2003), which cites to a case that was pending review in this Court (Espindola v. State, 855 So. 2d 1281 (Fla. 3d DCA 2003), reversed sub nom. Milks v. State, 894 So. 2d 924, 925 (Fla.), cert. denied, 126 S. Ct. 368 (2005)). We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

We directed respondent to show cause why this Court should not accept jurisdiction, summarily quash Wooding, 858 So. 2d 334, and remand for reconsideration in light of Milks v. State, 894 So. 2d 924 (Fla. 2005). In its response to the order to show cause, the respondent argues that one of the bases

upon which the Third District may have affirmed the trial court's order in his case is not controlled by Milks, 894 So. 2d 924. Having reviewed the case and the petitioner's reply, we have decided to grant the petition for review and remand this case for further consideration. The Third District's decision in Wooding, 858 So. 2d 334, is quashed, and this matter is remanded for reconsideration in light of Milks, 894 So. 2d 924, and any other matters that were properly raised before the Third District but not controlled by Milks, 894 So. 2d 924. No motion for rehearing will be entertained by the Court.

It is so ordered.

LEWIS, C.J., and WELLS, ANSTEAD, PARIENTE, QUINCE, CANTERO, and BELL, JJ., concur.

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. 3D01-1168

(Dade County)

Charles J. Crist, Jr., Attorney General, Tallahassee, Florida, and Richard L. Polin, Bureau Chief Criminal Appeals, Miami, Florida,

for Petitioner

Bennett H. Brummer, Public Defender and John Eddy Morrison, Assistant Public Defender, Eleventh Judicial Circuit, Miami, Florida,

for Respondent