

Supreme Court of Florida

No. SC04-1834

STATE OF FLORIDA,
Petitioner,

vs.

STEPHEN WALKER,
Respondent.

[June 1, 2006]

QUINCE, J.

We have for review Walker v. State, 880 So. 2d 1262, 1265 (Fla. 2d DCA 2004), in which the Second District Court of Appeal certified conflict with, inter alia, the First District Court of Appeal's decision in Hummel v. State, 782 So. 2d 450 (Fla. 1st DCA 2001), disapproved by State v. Anderson, 905 So. 2d 111, 119 (Fla. 2005), and the Fourth District Court of Appeal's decision in Montgomery v. State, 821 So. 2d 464 (Fla. 4th DCA 2002), approved, 897 So. 2d 1282, 1286 (Fla. 2005). We have jurisdiction. See art. V, § 3(b)(3)-(4), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

This Court disapproved Hummel in State v. Anderson, 905 So. 2d 111, 119 (Fla. 2005), to the extent inconsistent therewith, and approved Montgomery in Montgomery v. State, 897 So. 2d 1282, 1286 (Fla. 2005). We thus directed the respondent to show cause why this Court should not accept jurisdiction in this case, summarily quash the decision being reviewed, and remand for reconsideration in light of our decision in Montgomery. No response having been filed, the Court has determined that it should accept jurisdiction in this case.

The petition for review is therefore granted, the Second District Court of Appeal's decision in Walker is quashed, and this matter is remanded for reconsideration upon application of this Court's decision in Montgomery.

It is so ordered.

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

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
Direct Conflict of Decisions

Second District - Case No. 2D03-4056

(Pasco County)

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for Respondent