

Supreme Court of Florida

No. SC04-1931

STATE OF FLORIDA,
Petitioner,

vs.

REGINALD SWINDLE,
Respondent.

[February 9, 2006]

BELL, J.

We have for review Swindle v. State, 29 Fla. L. Weekly D2037 (Fla. 3d DCA Sept. 9, 2004), in which the Third District Court of Appeal cited with approval its decision in Espindola v. State, 855 So. 2d 1281 (Fla. 3d DCA 2003), rev'd sub nom. Milks v. State, 894 So. 2d 924 (Fla.), cert. denied, 126 S. Ct. 368 (2005), and certified conflict with the Second District Court of Appeal's decision in Milks v. State, 848 So. 2d 1167 (Fla. 2d DCA 2003), approved, 894 So. 2d 924 (Fla.), cert. denied, 126 S. Ct. 368 (2005). At the time the Third District Court of Appeal issued its decision in Swindle, both Espindola and Milks were pending review in this Court. We have jurisdiction. See art. V, § 3(b)(3)-(4), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

The petition for review is granted. On the authority of our decision in Milks v. State, 894 So. 2d 924 (Fla.), cert. denied, 126 S. Ct. 368 (2005), the decision under review is quashed, and this matter is remanded to the Third District Court of Appeal for reconsideration upon application of this Court's decision in Milks.

It is so ordered.

PARIENTE, C.J., and WELLS, ANSTEAD, LEWIS, QUINCE, and CANTERO, 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

Third District - Case No. 3D04-903

(Dade County)

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

for Petitioner

Reginald Swindle, Pro se, Florida City, Florida,

for Respondent