

Supreme Court of Florida

No. SC05-1291

B.W.H., etc.,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[February 8, 2007]

PER CURIAM.

We have for review B.W.H. v. State, 904 So. 2d 659 (Fla. 5th DCA 2005), in which the Fifth District Court of Appeal cited V.K.E. v. State, 902 So. 2d 343 (Fla. 5th DCA 2005), quashed, 934 So. 2d 1276 (Fla. 2006), and certified the same question as was then pending review in this Court in V.K.E. We have jurisdiction. See art. V, § 3(b)(3)-(4), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

We have since quashed V.K.E. and answered the certified question in a manner contrary to the decision presently on review. See V.K.E. v. State, 934 So. 2d 1276 (Fla. 2006). We have thus determined, and respondent agrees, that we should exercise our jurisdiction to grant the petition for review, quash the decision

under review, and remand to the Fifth District Court of Appeal for reconsideration upon application of this Court's decision in V.K.E.

It is so ordered.

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

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

Fifth District - Case No. 5D04-1974

(Marion County)

James S. Purdy, Public Defender and Thomas J. Lukashow, Assistant Public
Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Petitioner

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for Respondent