

Supreme Court of Florida

No. SC05-1779

DANIEL LOUIS MOORE,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[May 7, 2009]

PER CURIAM.

We have for review the decision of the Fifth District Court of Appeal in Moore v. State, 909 So. 2d 500 (Fla. 5th DCA 2005), which expressly and directly conflicts with the decision of the Second District Court of Appeal in Gordon v. Regier, 839 So. 2d 715 (Fla. 2d DCA 2003). We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.

We stayed proceedings in this case pending our disposition of Larimore v. State, 2 So. 3d 101 (Fla. 2008), in which we approved Gordon. Thus, when our decision in Larimore became final, we issued an order directing respondent in the present case to show cause why we should not accept jurisdiction, quash the

decision under review and remand for reconsideration in light of our decision in Larimore. Upon consideration of respondent's response and petitioner's reply thereto, we have determined to so proceed.

We accordingly grant the petition for review in the present case. The decision under review is quashed and this matter is remanded to the Fifth District for reconsideration upon application of this Court's Larimore decision.

It is so ordered.

QUINCE, C.J., and PARIENTE, LEWIS, CANADY, POLSTON, LABARGA, and PERRY, 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 - Direct Conflict of Decisions

Fifth District - Case No. 5D05-441

(Putnam County)

James S. Purdy, Public Defender, and John M. Selden, Assistant Public Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Petitioner

Bill McCollum, Attorney General, Tallahassee, Florida, Douglas T. Squire and Kellie A. Nielan, Assistant Attorneys General, Daytona Beach, Florida,

for Respondent