

# Supreme Court of Florida

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No. SC05-2309

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**MARK KAIGLER,**  
Petitioner,

vs.

**STATE OF FLORIDA,**  
Respondent.

[November 22, 2006]

PER CURIAM.

We review Kaigler v. State, 913 So. 2d 1254 (Fla. 2d DCA 2005), in which the Second District Court of Appeal certified conflict with Taylor v. State, 740 So. 2d 89 (Fla. 1st DCA 1999). We have jurisdiction because of the certified conflict and also because the Second District cited with approval Tillman v. State, 807 So. 2d 106 (Fla. 5th DCA 2002), which was then pending review in this Court. See art. V, § 3(b)(3)-(4), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

In Tillman v. State, 934 So. 2d 1263 (Fla. 2006), we quashed the decision of the Fifth District Court of Appeal in that case and approved the decision of the First District Court of Appeal in Taylor. Id. at 1274. When our Tillman decision

became final, we directed the respondent in this case, the State of Florida, to show cause why we should not summarily quash the decision below and remand for the Second District to apply the holding in Tillman. The State responded that it could offer no reason why the Second District decision should not be quashed and the case remanded. Accordingly, we grant review in this case, quash the decision below, and remand for reconsideration in light of our decision in Tillman.

It is so ordered.

LEWIS, C.J., and WELLS, ANSTEAD, PARIENTE, QUINCE, 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. 2D04-5520

(Pinellas County)

James Marion Moorman, Public Defender, and Kevin Briggs, Assistant Public Defender, Tenth Judicial Circuit, Bartow, Florida,

for Petitioner

Charles J. Crist, Jr., Attorney General, Tallahassee, Florida, and Cerese Crawford Taylor, Assistant Attorney General, Tampa, Florida,

for Respondent