

Supreme Court of Florida

No. SC05-654

CHRISTIAN E. JACKSON,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[January 26, 2006]

PARIENTE, C.J.

We initially accepted jurisdiction to review Jackson v. State, 895 So. 2d 1275 (Fla. 2d DCA 2005), a decision which the Second District Court of Appeal certified to be in direct conflict with the Fifth District Court of Appeal's decision in Johnson v. State, 877 So. 2d 795 (Fla. 5th DCA 2004). See art. V, § 3(b)(4), Fla. Const. Subsequently, the Fifth District decided Bouno v. State, 900 So. 2d 672 (Fla. 5th DCA 2005), in which the Fifth District distinguished its prior opinion in Johnson and agreed with the Second District that a claim of vindictive sentencing is not cognizable in a motion to correct illegal sentence filed pursuant to Florida Rule of Criminal Procedure 3.800(a). Based on the Fifth District's

decision in Bouno, we have determined that we should decline to exercise our discretionary jurisdiction. Accordingly, this review proceeding is hereby dismissed.

It is so ordered.

WELLS, ANSTEAD, LEWIS, QUINCE, CANTERO, and BELL, JJ., concur.

NO MOTION FOR REHEARING WILL BE ALLOWED.

Application for Review of the Decision of the District Court of Appeal - Certified Direct Conflict of Decisions

Second District - Case No. 2D04-5231

(Pinellas County)

Beverly A. Pohl of Broad and Cassel, Fort Lauderdale, Florida, and Cynthia E. Gunther of Bruce S. Rogow, P.A., Fort Lauderdale, Florida,

for Petitioner

Charles J. Crist, Jr., Attorney General, Tallahassee, Florida, Robert J. Krauss, Senior Assistant Attorney General, Chief of Criminal Law and Ronald Napolitano, Assistant Attorney General, Tampa, Florida,

for Respondent