

# Supreme Court of Florida

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No. SC05-979

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**STATE OF FLORIDA,**  
Petitioner,

vs.

**SALVATORE BENNETT,**  
Respondent.

[November 2, 2006]

PER CURIAM.

We have for review Bennett v. State, 904 So. 2d 447 (Fla. 4th DCA 2005), in which the Fourth District Court of Appeal cited its decision in Richardson v. State, 884 So. 2d 950 (Fla. 4th DCA 2003), reh'g granted in part, 884 So. 2d 950, 952 (Fla. 4th DCA 2004), quashed, 915 So. 2d 86, 89 (Fla. 2005). At the time that the Fourth District Court of Appeal issued its decision in Bennett, Richardson was pending review in this Court. We have jurisdiction. See art. V, § 3(b)(3), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

The petition for review is granted. On the authority of our decision in State v. Richardson, 915 So. 2d 86 (Fla. 2005), the decision under review is quashed,

and this matter is remanded to the Fourth District Court of Appeal for reconsideration upon application of this Court's decision in Richardson.

Any and all pending motions and requests are hereby denied as moot.

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

Fourth District - Case No. 4D04-4825

(Broward County)

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for Petitioner

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for Respondent