Supreme Court of Florida

No. SC06-1207

NICKULIS GILLIS,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[May 31, 2007]

PER CURIAM.

We initially accepted review of the decision in Gillis v. State, 930 So. 2d 802 (Fla. 3d DCA 2006), based on alleged express and direct conflict with Ripley v. State, 898 So. 2d 1078 (Fla. 4th DCA 2005), and West v. State, 876 So. 2d 614 (Fla. 4th DCA 2004). Upon further consideration we conclude that jurisdiction was improvidently granted, because these cases are factually distinguishable. The Miami-Dade Police Department's Miranda[1] rights form at issue in Gillis is substantially and materially different from the Broward County Sheriff's Office's

1. Miranda v. Arizona, 384 U.S. 438 (1966).

Miranda rights form at issue in Ripley and West.[2] Accordingly, we hereby discharge jurisdiction and dismiss this review proceeding.

It is so ordered.

LEWIS, C.J., and WELLS, ANSTEAD, PARIENTE, QUINCE, and CANTERO, JJ., concur.
BELL, J., dissents with an opinion.

NO MOTION FOR REHEARING WILL BE ALLOWED.

BELL, J., dissenting.

I respectfully dissent to the discharge of this case. I agree that the Miranda forms are substantially different. However, I do not believe that this difference is material to the express holdings in the cases. In other words, this factual distinction does not negate the express and direct conflict between the holding in Gillis and the holdings in Ripley and West. There is interdistrict conflict concerning whether Miranda requires that an accused be advised that he or she may terminate questioning at any time. See Gillis, 930 So. 2d at 806 (holding that the Miranda rights form was not legally inadequate and that Gillis was properly advised of his rights "because the Miranda form used informs the accused that he/she does not have to answer any questions posed by the officer, [and] implicit in

2. The text of the Broward County Sheriff's Office's Miranda rights form at issue in Ripley and West is found in Roberts v. State, 874 So. 2d 1225, 1226 (Fla. 4th DCA 2004). Compare Gillis, 930 So. 2d at 805-06, with Roberts, 874 So. 2d at 1226.

this warning is the fact that the accused may invoke his right to remain silent at any time during the interrogation or to terminate further questioning during the interrogation"); but see Ripley, 898 So. 2d at 1081 (holding that Miranda rights form was legally inadequate in part because the Miranda warning "did not advise Ripley. . . that he could stop the interrogation at any time during questioning"); West, 876 So. 2d at 616 (holding that appellant's confession should be suppressed, in part, because the Miranda rights form was inadequate to inform the appellant "that she could stop the interrogation at any time"). The decisions from the Fourth District also expressly and directly conflict with this Court's decision in Brown v. State, 565 So. 2d 304, 306 (Fla. 1990) (holding, in part, that the Miranda rights form was legally sufficient although it did not mention the right to terminate questioning, because "[t]he right to cut off questioning is implicit in the litany of rights which Miranda requires to be given to a person being questioned [but] is not . . . among those that must be specifically communicated to such a person"), abrogated on other grounds by Jackson v. State, 648 So. 2d 85 (Fla. 1994). Given this clear decisional conflict, I would retain jurisdiction and decide this important issue.

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

Third District - Case No. 3D04-2340

(Dade County)

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for Petitioner

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