

Supreme Court of Florida

No. SC06-1630

JERMAINE THOMAS,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[November 8, 2007]

PER CURIAM.

We have for review Thomas v. State, 933 So. 2d 45 (Fla. 4th DCA 2006), based on express and direct conflict with Perkins v. State, 576 So. 2d 1310 (Fla. 1991). We have jurisdiction. See art V, § 3(b)(3), Fla. Const.

At the time the Fourth District Court of Appeal issued its decision in Thomas, another case was pending here on review likewise based on express and direct conflict with Perkins. See Hearn v. State, 912 So. 2d 377 (Fla. 3d DCA 2005), approved, 961 So. 2d 211 (Fla. 2007). We thus stayed proceedings in the present case pending disposition of Hearn. After Hearn was decided, we issued

an order directing respondent to show cause why we should not accept jurisdiction, quash the Thomas decision, and remand for reconsideration in light of our decision in Hearns. In its response, respondent "respectfully submits to this Court that the holding of Hearns applies to the case at bar" and that, "now that Hearns has been decided, the Court should apply the same principles of law to the case at bar and take whatever action it deems just and proper in the circumstances."

We accordingly grant the petition for review in the present case. 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 Hearns.

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 - Direct Conflict

Fourth District - Case No. 4D04-3143

(Broward County)

Carey Haughwout, Public Defender, and Tom William Odom, Assistant Public Defender, Fifteenth Judicial Circuit, West Palm Beach, Florida,

for Petitioner

Bill McCollum, Attorney General, Tallahassee, Florida, Celia A. Terenzio, Bureau Chief, and Joseph A. Tringali, Assistant Attorneys General, West Palm Beach, Florida,

for Respondent