

Supreme Court of Florida

No. SC06-1714

EVER NAHON ORTIZ,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[July 12, 2007]

PER CURIAM.

We initially accepted review of the decision in Ortiz v. State, 932 So. 2d 214 (Fla. 3d DCA 2004), based on alleged express and direct conflict with Bell v. State, 643 So. 2d 674 (Fla. 1st DCA 1994), Bingham v. State, 655 So. 2d 1186 (Fla. 1st DCA 1995), Laranger v. State, 686 So. 2d 697 (Fla. 4th DCA 1996), and Carter v. State, 763 So. 2d 1091 (Fla. 4th DCA 1999). Upon further consideration, we conclude that the Third District's decision is based on a materially disparate fact as to whether the trial court ordered Ortiz to complete the drug offender treatment program. Additionally, the circumstances of this case and the alleged

conflict decisions are factually distinguishable. For these reasons, we exercise our discretion to discharge jurisdiction and this review proceeding is hereby dismissed.

It is so ordered.

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

NO MOTION FOR REHEARING WILL BE ALLOWED.

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

Third District - Case No. 3D04-78

(Dade County)

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for Petitioner

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