Supreme Court of Florida

No. SC06-482

STATE OF FLORIDA,
Petitioner,

vs.

ROGER CARL MOLINE,
Respondent.

[February 21, 2008]

PER CURIAM.

We have for review Moline v. State, 31 Fla. L. Weekly D701 (Fla. 1st DCA Mar. 3, 2006), in which the First District Court of Appeal certified conflict with Galindez v. State, 910 So. 2d 284 (Fla. 3d DCA 2005), approved, 955 So. 2d 517 (Fla. 2007). We have jurisdiction. See art. V, § 3(b)(4), Fla. Const.

We stayed proceedings in this case pending disposition of Galindez, which we ultimately decided on harmless error grounds based on a thorough review of the record. See Galindez v. State, 955 So. 2d 517 (Fla. 2007). We thereafter issued an order directing petitioner to show cause why our Galindez decision should not control the outcome of the present case. However, petitioner's response and

respondent's reply thereto do not contain enough information or record attachments for us to perform a Galindez harmless error analysis. Moreover, we cannot unilaterally perform such an analysis, as the record is not before this Court.

We accordingly grant the petition for review in the present case. The decision under review is quashed and this matter is remanded to the First District Court for application of a harmless error analysis based on our decision in Galindez and a thorough review of the record.

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

First District - Case No. 1D05-2815

(Clay County)

Bill McCollum, Attorney General, and Giselle Lylen Rivera, Assistant Attorney General, Tallahassee, Florida,

for Petitioner

Roger Carl Moline, Pro se, Bushnell, Florida

for Respondent