

Supreme Court of Florida

No. SC07-1072

ROBERT LEE ROWLES,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[April 9, 2009]

PER CURIAM.

We have for review Rowles v. State, 954 So. 2d 1278 (Fla. 5th DCA 2007), in which the Fifth District Court of Appeal cited as authority its decision in Moore v. State, 909 So. 2d 500 (Fla. 5th DCA 2005), notice invoking discretionary review filed, No. SC05-1779 (Fla. Sept. 28, 2005). At the time the Fifth District issued its decision in Rowles, its Moore decision was, and still is, 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).

We stayed proceedings in this case pending our disposition of Larimore v. State, 2 So. 3d 101 (Fla. 2008). When our decision in Larimore became final, we issued an order directing respondent in the present case to show cause why we

should not accept jurisdiction, quash the decision under review, and remand for reconsideration in light of our decision in Larimore. Respondent in its response agrees we should so proceed.

We accordingly grant the petition for review in the present case. The decision under review is quashed, and this matter is remanded to the Fifth District for reconsideration upon application of this Court's Larimore decision.

It is so ordered.

QUINCE, C.J., and PARIENTE, LEWIS, CANADY, POLSTON, and LABARGA, JJ., concur.
PERRY, J., did not participate.

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 of Decisions

Fifth District - Case No. 5D06-2622

(Brevard County)

James S. Purdy, Public Defender, and Rose M. Levering, Assistant Public Defender, Daytona Beach, Florida,

for Petitioner

Bill McCollum, Attorney General, Tallahassee, Florida, and Douglas T. Squire, Assistant Attorney General, Daytona Beach, Florida,

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