

Supreme Court of Florida

No. SC07-1229

CARLOS MACIAS,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[February 26, 2009]

PER CURIAM.

We have for review Macias v. State, 956 So. 2d 529 (Fla. 4th DCA 2007), in which the Fourth District Court of Appeal cited as authority its decision in Saintelien v. State, 937 So. 2d 234 (Fla. 4th DCA 2006), approved in result, 990 So. 2d 494 (Fla. 2008). At the time the Fourth District Court issued its decision in Macias, its Saintelien decision was 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 the present case pending our disposition of Saintelien, in which we ultimately held that “a rule 3.800(a) motion to correct an illegal sentence may be used to challenge a sexual predator designation, but limit our holding to cases where it is apparent from the face of the record that the defendant did not meet the criteria for designation as a sexual predator.” Saintelien v. State, 990 So. 2d 494, 495 (Fla. 2008). In so holding, we approved the result the Fourth District Court’s underlying Saintelien decision. See id. at 497.

We have determined to accept jurisdiction and 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 for reconsideration upon review of the record and application of this Court’s decision in Saintelien.

It is so ordered.

QUINCE, C.J., and WELLS, PARIENTE, LEWIS, CANADY, POLSTON, and LABARGA, 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 of Decisions

Fourth District - Case No. 4D07-1071

(St. Lucie County)

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for Petitioner

Bill McCollum, Attorney General, Tallahassee, Florida,

for Respondent