

Supreme Court of Florida

No. SC07-2294

STATE OF FLORIDA,
Petitioner,

vs.

SAMUEL D. GRANBERRY,
Respondent.

[January 15, 2009]

LEWIS, J.

We have for review Granberry v. State, 967 So. 2d 1044 (Fla. 5th DCA 2007), in which the Fifth District Court of Appeal certified conflict with the Third District Court of Appeal's decision in Martinez v. State, 933 So. 2d 1155 (Fla. 3d DCA 2006), approved, 981 So. 2d 449 (Fla. 2008). We have jurisdiction. See art. V, § 3(b)(4), Fla. Const.

We stayed proceedings in this case pending our disposition of Martinez. See Martinez v. State, 981 So. 2d 449 (Fla. 2008) (approving the holding of the Third District in Martinez). When our decision in Martinez became final, we issued an order directing respondent to show cause why we should not exercise jurisdiction,

quash the Granberry decision, and remand for reconsideration in light of our decision in Martinez. Upon consideration of the responses of the parties, along with a previously filed jurisdictional brief, we have determined to do so.

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 Court of Appeal for reconsideration upon application of this Court's decision in Martinez.

It is so ordered.

QUINCE, C.J., WELLS, PARIENTE, CANADY, and POLSTON, JJ., and ANSTEAD, Senior Justice, 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

Fifth District - Case No. 5D06-3988

(Orange County)

Bill McCollum, Attorney General, Tallahassee, Florida, and Kristen L. Davenport, Kellie A. Nielan and Carmen F. Corrente, Assistant Attorneys General, Daytona Beach, Florida,

for Petitioner

James S. Purdy, Public Defender, and David S. Morgan, Assistant Public Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Respondent