

Supreme Court of Florida

No. SC07-2346

STATE OF FLORIDA,
Petitioner,

vs.

EUGENE FITZGERALD BARNES,
Respondent.

[January 15, 2009]

LEWIS, J.

We have for review Barnes v. State, 969 So. 2d 1117 (Fla. 5th DCA 2007), in which the Fifth District Court of Appeal certified a question of great public importance. We have jurisdiction. See art. V, § 3(b)(4), Fla. Const.

We stayed proceedings in this case pending our disposition of Martinez v. State, 981 So. 2d 449 (Fla. 2008). When our decision in Martinez became final, we issued an order directing respondent to show cause why we should not exercise jurisdiction, quash the Barnes decision, and remand for reconsideration in light of our decision in Martinez. Upon consideration of the responses of the parties, 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 Great Public Importance

Fifth District - Case No. 5D06-2393

(Marion County)

Bill McCollum, Attorney General, Tallahassee, Florida, and Kristen L. Davenport, Assistant Attorney General, Daytona Beach, Florida,

for Petitioner

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for Respondent