

Supreme Court of Florida

No. SC07-936

VICTOR RIVERA,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[February 26, 2009]

PER CURIAM.

We initially accepted jurisdiction to review the decision of the Third District Court of Appeal in Rivera v. State, 954 So. 2d 1216 (Fla. 3d DCA 2007), review granted, 968 So. 2d 557 (Fla. 2007) (table), based on express and direct conflict with the decisions of the other district courts in Hinkel v. State, 937 So. 2d 1201 (Fla. 5th DCA 2006), Briggs v. State, 929 So. 2d 1151 (Fla. 5th DCA 2006), Reed v. State, 810 So. 2d 1025 (Fla. 2d DCA 2002), Henderson v. State, 720 So. 2d 1121 (Fla. 4th DCA 1998), Tillman v. State, 693 So. 2d 626 (Fla. 2d DCA 1997), Silverstein v. State, 654 So. 2d 1040 (Fla. 4th DCA 1995), and Van Ellis v. State, 455 So. 2d 1065 (Fla. 1st DCA 1984). See art. V, § 3(b)(4), Fla. Const. After

further, full consideration, we have determined that we should exercise our discretion and discharge jurisdiction. Accordingly, this review proceeding is dismissed.

It is so ordered.

QUINCE, C.J., and WELLS, PARIENTE, LEWIS, CANADY, POLSTON, and LABARGA, JJ., concur.

NO MOTION FOR REHEARING WILL BE ALLOWED.

Application for Review of the Decision of the District Court of Appeal - Direct Conflict of Decisions

Third District - Case No. 3D07-482

(Dade County)

Carlos J. Martinez, Public Defender, and Shannon Patricia McKenna, Assistant Public Defender, Eleventh Judicial Circuit, Miami, Florida,

for Petitioner

Bill McCollum, Attorney General, Tallahassee, Florida, Richard L. Polin, Bureau Chief, and Douglas J. Glaid, Assistant Attorneys General, Miami, Florida,

for Respondent