

Supreme Court of Florida

No. SC08-1926

MICHAEL J. CELESTE, JR., etc.,
Petitioner,

vs.

LINDSAY KERNS, et al.,
Respondents.

[February 26, 2009]

PER CURIAM.

We have for review Celeste v. Kerns, 990 So. 2d 9 (Fla. 1st DCA 2008), in which the First District Court of Appeal cited as authority its decision Lowry v. Central Leasing Management, Inc., 988 So. 2d 1113 (Fla. 1st DCA 2008), denying rehearing of 33 Fla. L. Weekly D1241 (Fla. 1st DCA May 5, 2008), quashed, Lowry v. Central Leasing Management, Inc., No. SC08-1543 (Fla. Feb. 26, 2009). By the time the First District's Celeste decision became final on denial of rehearing, its Lowry 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).

As we had done in Lowry, we stayed proceedings in this case pending our disposition of Murray v. Mariner Health, 994 So. 2d 1051 (Fla. 2008). When our decision in Murray became final, we issued an order directing respondents in the present case to show cause why we should not accept jurisdiction, summarily quash the decision being reviewed, and remand for reconsideration in light of our decision in Murray. Upon consideration of respondents' response and petitioner's reply thereto, we have determined to so proceed.

We thus grant the petition for review in this case, quash the decision below, and remand for reconsideration upon application of our decision in Murray.

Petitioner's pending motion to lift stay is accordingly denied as moot.

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

First District - Case No. 1D07-3453

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for Petitioner

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for Respondent