

Supreme Court of Florida

No. SC08-2243

JOHN CHRISTIANSEN,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[December 3, 2009]

PER CURIAM.

We have for review Christiansen v. State, 993 So. 2d 173 (Fla. 2d DCA 2008), in which the Second District Court of Appeal cited as authority its decision in Sheppard v. State, 988 So. 2d 74 (Fla. 2d DCA 2008), quashed, 17 So. 3d 275 (Fla. 2009), and, as it had done in that case, certified conflict with decisions of another district court of appeal. At the time the Second District issued its Christiansen decision, Sheppard was pending review in this Court. We have jurisdiction. See art. V, § 3(b)(3)-(4), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

We stayed proceedings in this case pending our disposition of Sheppard v. State, 17 So. 3d 275 (Fla. 2009), in which we ultimately quashed the Second District's underlying Sheppard decision. We then issued an order directing respondent in the present case to show cause why we should not accept jurisdiction, quash the Second District's underlying Christiansen decision, and remand for reconsideration in light of our decision in Sheppard. Respondent in its response concedes that it can show no such cause.

We have accordingly determined to exercise jurisdiction and grant the petition for review in the present case. The decision under review is quashed and this matter is remanded to the Second District for reconsideration upon application of this Court's Sheppard decision.

It is so ordered.

QUINCE, C.J., and PARIENTE, LEWIS, CANADY, POLSTON, LABARGA,
and PERRY, 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

Second District - Case No. 2D08-48

(Sarasota County)

James Marion Moorman, Public Defender, and Kevin Briggs, Assistant Public Defender, Tenth Judicial Circuit, Bartow, Florida,

for Petitioner

Bill McCollum, Attorney General, Tallahassee, Florida, Robert J. Krauss and Timothy A. Freeland, Assistant Attorneys General, Tampa, Florida

for Respondent