

Supreme Court of Florida

No. SC11-1164

BRETT FENSTER,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[March 20, 2014]

LABARGA, J.

We have for review Fenster v. State, 61 So. 3d 465 (Fla. 4th DCA 2011), in which the Fourth District Court of Appeal cited as authority its decision in Williams v. State, 40 So. 3d 72 (Fla. 4th DCA 2010), quashed, 123 So. 3d 23 (Fla. 2013). At the time the Fourth District issued its decision in Fenster, Williams 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).

We stayed proceedings in this case pending our disposition of Williams v. State, 123 So. 3d 23 (Fla. 2013), in which we ultimately quashed the Fourth

District's underlying Williams decision. We then issued an order directing the Respondent to show cause why this Court should not accept jurisdiction, summarily quash the Fourth District's decision in Fenster, and remand for reconsideration in light of our decision in Williams.

Upon consideration of the State's response and Fenster's reply, we grant the petition for review, quash the Fourth District's decision in Fenster, and remand this case to the Fourth District for further proceedings consistent with our decision in Williams.

It is so ordered.

POLSTON, C.J., and PARIENTE, LEWIS, QUINCE, CANADY, 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 - Certified Direct Conflict of Decisions

Fourth District – Case No. 4D07-1983

(Broward County)

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for Petitioner

Pamela Jo Bondi, Attorney General, Tallahassee, Florida, and Laura J. Fisher, Assistant Attorney General, West Palm Beach, Florida,

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