

Supreme Court of Florida

No. SC12-1292

RICARDO HERMON GLASCO,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[April 24, 2014]

LEWIS, J.

We have for review State v. Glasco, 90 So. 3d 905 (Fla. 5th DCA 2012), in which the Fifth District Court of Appeal reversed the trial court's order granting a motion to suppress evidence found on a cellular phone without a search warrant. The Fifth District, in following the First District Court of Appeal and relying on Smallwood v. State, 61 So. 3d 448 (Fla. 1st DCA 2011), quashed, 113 So. 3d 724 (Fla. 2013), certified the following question as one of great public importance:

DOES THE HOLDING IN UNITED STATES V. ROBINSON, [414 U.S. 218 (1973)], ALLOW A POLICE OFFICER TO SEARCH THROUGH INFORMATION CONTAINED WITHIN A CELL

PHONE THAT IS ON AN ARRESTEE'S PERSON AT THE TIME
OF A VALID ARREST?

Glasco, 90 So. 3d at 908-09. At the time that the Fifth District issued its decision in Glasco, Smallwood was pending in this Court. We have jurisdiction. See art. V, § 3(b)(4), Fla. Const.

We stayed proceedings in this case pending the disposition of Smallwood v. State, 113 So. 3d 724, 741 (Fla. 2013), in which we ultimately quashed the First District's underlying Smallwood decision. We then issued an order directing Respondent to show cause why this Court should not accept jurisdiction, summarily quash the Fifth District's decision in Glasco, and remand for reconsideration in light of our decision in Smallwood. Respondent filed a response conceding that "this case should be remanded for reconsideration in light of this Court's recent decision in Smallwood v. State." Petitioner did not file a reply.

Upon consideration of the response, we grant the petition for review, quash the Fifth District's decision in Glasco, and remand this case to the Fifth District for further proceedings consistent with this Court's decision in Smallwood.

It is so ordered.

POLSTON, C.J., and PARIENTE, QUINCE CANADY, 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 - Certified
Great Public Importance

Fifth District - Case No. 5D11-851

(Brevard County)

James S. Purdy, Public Defender, and Doris R. Ball, Assistant Public Defender,
Daytona Beach, Florida,

for Petitioner

Pamela Jo Bondi, Attorney General, Tallahassee, Florida; Kristen Lynn Davenport,
Assistant Attorney General, Daytona Beach, Florida,

for Respondent