

# Supreme Court of Florida

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No. SC03-860

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**STATE OF FLORIDA,**  
Petitioner,

vs.

**DANIEL BROCCA,**  
Respondent.

[April 5, 2007]

PER CURIAM.

We have for review State v. Brocca, 842 So. 2d 291 (Fla. 3d DCA 2003), in which the Third District Court of Appeal cited State v. Hosty, 835 So. 2d 1202 (Fla. 4th DCA 2003), rev'd, 944 So. 2d 255 (Fla. 2006), and certified the same question as was then pending review in this Court in Hosty. We have jurisdiction. See art. V, § 3(b)(3)-(4), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

We have since reversed Hosty and answered a rephrased certified question in a manner contrary to the decision presently on review. See State v. Hosty, 944 So. 2d 255 (Fla. 2006). We have thus determined and respondent does not contest

that we should exercise our jurisdiction to grant the petition for review, quash the decision under review, and remand to the Third District Court for reconsideration upon application of this Court's decision in Hosty.

It is so ordered.

LEWIS, C.J., and WELLS, ANSTEAD, PARIENTE, CANTERO, and BELL, JJ.,  
concur.

QUINCE, J., dissents.

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

Third District - Case No. 3D02-2652

(Dade County)

Bill McCollum, Attorney General, Tallahassee, Florida, and Angel L. Fleming,  
Assistant Attorney General, Ft. Lauderdale, Florida,

for Petitioner

Richard G. Dunberg, Miami, Florida,

for Respondent