

Supreme Court of Florida

No. SC05-586

ANDREW MANOS,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[November 15, 2007]

PER CURIAM.

We have for review Manos v. State, 895 So. 2d 524 (Fla. 5th DCA 2005), in which the Fifth District Court of Appeal cited as authority Franklin v. State, 877 So. 2d 19 (Fla. 4th DCA 2004), quashed, 955 So. 2d 564 (Fla. 2007). At the time the Fifth District Court issued its decision in Manos, Franklin 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 disposition of Franklin. We ultimately quashed the Fourth District Court's underlying Franklin decision. See State v. Franklin, 955 So. 2d 564 (Fla. 2007) (citing Sanders v. State, 944 So. 2d

203 (Fla. 2006)). Having disposed of Franklin, we then issued an order directing respondent to show cause why we should not accept jurisdiction in the present case, quash the Manos decision, and remand for reconsideration in light of our decision in Franklin. Upon consideration of respondent's response and the parties' previously filed jurisdictional briefs, we have determined to so proceed.

We grant the petition for review in the present case, quash the decision under review, and remand this matter to the Fifth District Court of Appeal for reconsideration upon application of this Court's decision in Franklin.

It is so ordered.

LEWIS, C.J., and WELLS, ANSTEAD, PARIENTE, QUINCE, CANTERO, and BELL, 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

Fifth District - Case No. 5D03-2560

(Volusia County)

James S. Purdy, Public Defender, and Christopher S. Quarles, Assistant Public Defender, Seventh Judicial Circuit, Daytona Beach, Florida,

for Petitioner

Bill McCollum, Attorney General, Tallahassee, Florida, Douglas T. Squire and Kellie A. Nielan, Assistant Attorneys General, Daytona Beach, Florida,

for Respondent