

Supreme Court of Florida

No. SC06-769

STATE OF FLORIDA,
Appellant,

vs.

MARK K. SACHS,
Appellee.

[January 18, 2007]

PER CURIAM.

We have for review State v. Sachs, 926 So. 2d 440 (Fla. 3d DCA 2006), in which the Third District Court of Appeal affirmed the trial court's ruling based upon the parties' stipulation at the trial level as to the controlling effect of State v. Harden, 873 So. 2d 352 (Fla. 3d DCA 2004), aff'd, 938 So. 2d 480 (Fla. 2006). At the time the Third District Court issued its decision in Sachs, Harden was pending review in this Court. We have jurisdiction. See art. V, § 3(b)(1), (3), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

We recently affirmed the Third District Court's decision in Harden.
See State v. Harden, 938 So. 2d 480 (Fla. 2006). As a result, we issued an order on September 20, 2006, directing the appellant to show cause why this Court should not summarily affirm Sachs in light of our decision in Harden. Appellant agreed that "Harden is controlling in the instant case, and summary affirmance is appropriate." Therefore, based upon our decision in Harden and the appellant's response to the order to show cause, we summarily affirm the decision of the Third District Court in Sachs.

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.

An Appeal from the District Court of Appeal - Statutory or Constitutional Invalidity

Third District - Case No. 3D04-1244

(Dade County)

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