

Supreme Court of Florida

No. SC10-606

TOMAS ARIAS,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[May 10, 2012]

PER CURIAM.

We have for review Arias v. State, 35 Fla. L. Weekly D490 (Fla. 3d DCA Feb. 24, 2010), in which the Third District Court of Appeal cited as authority its decision in State v. Jardines, 9 So. 3d 1 (Fla. 3d DCA 2008), quashed, 73 So. 3d 34 (Fla. 2011), cert. granted in part, 132 S. Ct. 995 (2012). At the time the Third District issued its Arias decision, Jardines 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 Jardines v. State, 73 So. 3d 34 (Fla. 2011), cert. granted in part, 132 S. Ct. 995 (2012), in

which we ultimately quashed the Third District's underlying Jardines decision. We then issued an order directing respondent in the present case to show cause why we should not accept jurisdiction, quash the Third District's underlying Arias decision, and remand for reconsideration in light of our decision in Jardines.

Upon consideration of the response and petitioner's reply thereto, we have determined to accept jurisdiction and grant the petition for review in the present case. The decision under review is quashed and this matter is remanded to the Third District for reconsideration upon application of this Court's Jardines decision.

It is so ordered.

PARIENTE, LEWIS, QUINCE, LABARGA, and PERRY, JJ., concur.
CANADY, C.J., and POLSTON, J., dissent.

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

Third District - Case No. 3D08-483

(Dade County)

Carlos J. Martinez, Public Defender, Billie Jan Goldstein, Assistant Public
Defender, Miami, Florida,

for Petitioner

Pamela Jo Bondi, Attorney General; Richard L. Polin, Chief Assistant Attorney General; and Timothy Rhys Morgan Thomas, Assistant Attorney General, Miami, Florida,

for Respondent