

Supreme Court of Florida

No. SC01-1569

ROBERT ARGUELLES,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[August 22, 2002]

PER CURIAM.

We have for review Arguelles v. State, 791 So. 2d 500 (Fla. 4th DCA 2001), a decision relying on Banks v. State, 755 So. 2d 142 (Fla. 4th DCA 2000), quashed, 790 So. 2d 1094 (Fla. 2001), which was pending review in this Court at the time of the district court's decision in this case. We have jurisdiction pursuant to article V, section 3(b)(3), Florida Constitution.

We recently quashed the decision in Banks. See Banks v. State, 790 So. 2d 1094 (Fla. 2001). While the extent of the district court's reliance on Banks is not

entirely clear, we conclude that, because of the express reliance, we should vacate the decision and direct the district court to reconsider its decision in light of our opinion in Banks. Such reconsideration should be without prejudice to the parties providing additional briefing to the district court on the effect of our decision in Banks on this case.

Accordingly, we quash the decision under review and remand for further proceedings in accord herewith.

It is so ordered.

ANSTEAD, C.J., and SHAW, HARDING, WELLS, PARIENTE, LEWIS, and QUINCE, 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

Fourth District - Case No. 4D00-1602

(Broward County)

Carey Haughwout, Public Defender, and Steven H. Malone, Assistant Public Defender, Fifteenth Judicial Circuit, West Palm Beach, Florida,

for Petitioner

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for Respondent