

Supreme Court of Florida

No. SC02-2492

STATE OF FLORIDA,
Petitioner,

vs.

ISAAC SMITH,
Respondent.

[April 26, 2007]

PER CURIAM.

We have for review Smith v. State, 829 So. 2d 940 (Fla. 4th DCA 2002), in which the Fourth District Court of Appeal certified conflict with Bates v. State, 818 So. 2d 626 (Fla. 1st DCA 2002), quashed, 887 So. 2d 1214 (Fla. 2004), and certified the same question of great public importance as had been certified in Bates. At the time the Fourth District issued its decision in Smith, Bates was pending review in this Court. We have jurisdiction. See art. V, § 3(b)(3)-(4), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

We stayed this case and proceeded to issue our related decisions in Bates v. State, 887 So. 2d 1214 (Fla. 2004), and State v. Dickey, 928 So. 2d 1193 (Fla.

2006). Once those decisions were final, we issued an order directing the respondent to show cause why we should not exercise our jurisdiction to summarily quash the decision under review and remand for reconsideration in light of our decisions in Bates and Dickey. Respondent did not file a response but, upon consideration of petitioner's reply, we have determined to do just that.

We accordingly grant the petition for review in the present case. The decision under review is quashed and this matter is remanded to the Fourth District Court for reconsideration upon application of this Court's decisions in Bates and Dickey.

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 - Certified Direct Conflict of Decisions

Fourth District - Case No. 4D01-4710

(Palm Beach County)

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for Petitioner

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for Respondent