

# Supreme Court of Florida

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No. SC04-1408

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**CITY OF MIAMI,**  
Petitioner,

vs.

**SIDNEY S. WELLMAN, et al.,**  
Respondents.

[November 2, 2006]

PER CURIAM.

We have for review City of Miami v. Wellman, 875 So. 2d 635 (Fla. 3d DCA 2004), in which the Third District Court of Appeal cited Mulligan v. City of Hollywood, 871 So. 2d 249 (Fla. 4th DCA 2003), quashed, 934 So. 2d 1238 (Fla. 2006). By the time the Third District Court of Appeal's Wellman decision became final, Mulligan 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).

The petition for review is granted. On the authority of our decision in City of Hollywood v. Mulligan, 934 So. 2d 1238 (Fla. 2006), the decision under review

is quashed, and this matter is remanded to the Third District Court of Appeal for reconsideration upon application of this Court's decision in Mulligan.

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

Third District - Case No. 3D01-3050

(Dade County)

Robert S. Glazier, Miami, Florida, Jorge L. Fernandez, City Attorney, Maria Joy Chiaro and Warren Bittner, Assistant City Attorneys, Miami, Florida,

for Petitioner

Ronald S. Guralnick, Miami, Florida

for Respondent