

Supreme Court of Florida

No. SC05-659

STATE OF FLORIDA,
Petitioner,

vs.

MICHAEL M. NESBITT,
Respondent.

[October 5, 2006]

PER CURIAM.

We have for review Nesbitt v. State, 912 So. 2d 15 (Fla. 4th DCA 2005), in which the Fourth District Court of Appeal cited with approval its decision in Richardson v. State, 884 So. 2d 950 (Fla. 4th DCA 2003), reh'g granted in part, 884 So. 2d 950, 952 (Fla. 4th DCA 2004), quashed, 915 So. 2d 86 (Fla. 2005), and certified conflict with the Second District Court of Appeal's decision in McCall v. State, 862 So. 2d 807 (Fla. 2d DCA 2003), review denied, 920 So. 2d 627 (Fla. 2005) (table), and approved by State v. Richardson, 915 So. 2d 86, 89 (Fla. 2005). At the time that the Fourth District Court of Appeal issued its decision in Nesbitt,

both Richardson and McCall were pending review in this Court. We have jurisdiction. See art. V, § 3(b)(4), Fla. Const.

The petition for review is granted. On the authority of our decision in State v. Richardson, 915 So. 2d 86 (Fla. 2005), the decision under review is quashed, and this matter is remanded to the Fourth District Court of Appeal for reconsideration upon application of this Court's decision in Richardson.

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. 4D04-1991

(Broward County)

Charles J. Crist, Jr., Attorney General, Tallahassee, Florida, and Jeanine M. Germanowicz, Assistant Attorney General, West Palm Beach, Florida,

for Petitioner

Michael M. Nesbitt, pro se, Florida City, Florida,

for Respondent