

Supreme Court of Florida

No. SC07-975

GONZALO ESTRADA,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[April 17, 2008]

PER CURIAM.

We have for review Estrada v. State, 954 So. 2d 639 (Fla. 4th DCA 2007), in which the Fourth District Court of Appeal cited as authority its earlier decision in Spera v. State, 923 So. 2d 543 (Fla. 4th DCA 2006), quashed, 971 So. 2d 754 (Fla. 2007), and certified conflict with the Second District Court of Appeal's decision in Keevis v. State, 908 So. 2d 552 (Fla. 2d DCA 2005). At the time the Fourth District Court issued its decision in Estrada, Spera was pending review in this Court. We have jurisdiction. See art. V, § 3(b)(4), Fla. Const.

We stayed proceedings in this case pending disposition of Spera. We have since decided Spera, in which we quashed the Fourth District Court's underlying

Spera decision based on conflict with the Second District Court's Keevis decision. See Spera v. State, 971 So. 2d 754 (Fla. 2007). We thus issued an order directing Respondent in the present case to show cause why we should not exercise jurisdiction, quash the Fourth District Court's Estrada decision, and remand for reconsideration in light of our decision in Spera. Respondent did not respond to that order, thereby constructively conceding that we should so proceed.

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 decision in Spera.

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. 4D07-329

(Broward County)

Gonzalo Estrada, pro se, Monticello, Florida,

for Petitioner