

Supreme Court of Florida

No. SC08-1159

A.T., etc.,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

[April 16, 2009]

PER CURIAM.

We have for review A.T. v. State, 983 So. 2d 679 (Fla. 4th DCA 2008), in which the Fourth District Court of Appeal cited as authority its decision in E.A.R. v. State, 975 So. 2d 610 (Fla. 4th DCA 2008), quashed, 34 Fla. L. Weekly S120 (Fla. Jan. 30, 2009). At the time the Fourth District issued its decision in A.T., E.A.R. 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).

We stayed proceedings in this case pending our disposition of E.A.R. v. State, 34 Fla. L. Weekly S120 (Fla. Jan. 30, 2009), in which we ultimately quashed the Fourth District's underlying E.A.R. decision and explicitly disapproved its

decision in A.T. Now, as A.T. is on direct review, we have determined to correspondingly quash the Fourth District's underlying A.T. decision.

We thus grant the petition for review in the present case. The decision under review is quashed and this matter is remanded to the Fourth District for reconsideration upon application of this Court's E.A.R. decision.

It is so ordered.

QUINCE, C.J., and PARIENTE, LEWIS, POLSTON, LABARGA, and PERRY, JJ., concur.
CANADY, J., dissents.

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

Fourth District - Case No. 4D07-2129 and 4D07-3238

(St. Lucie County)

Carey Haughwout, Public Defender, and Elisabeth Porter, Assistant Public Defender, Fifteenth Judicial Circuit, West Palm Beach, Florida,

for Petitioner

Bill McCollum, Attorney General, Tallahassee, Florida, Celia Terenzio, Bureau Chief, and Sue-Ellen Kenny, Assistant Attorneys General, West Palm Beach, Florida,

for Respondent