

Supreme Court of Florida

No. SC10-2460

GARY BERNE,
Petitioner,

vs.

**FLORIDA DEPARTMENT OF HIGHWAY SAFETY & MOTOR
VEHICLES,**
Respondent.

[March 8, 2012]

PER CURIAM.

We initially accepted jurisdiction to review Florida Department of Highway Safety & Motor Vehicles v. Berne, 49 So. 3d 779 (Fla. 5th DCA 2010), review granted, 65 So. 3d 515 (Fla. 2011) (table), on the basis that the decision of the district court expressly and directly conflicts with a decision of this Court and the decision of another district court of appeal. After further, full consideration, we have determined that we should exercise our discretion and discharge jurisdiction. Accordingly, we dismiss this case.

It is so ordered.

LABARGA and PERRY, JJ., concur.

CANADY, C.J., PARIENTE, and POLSTON, JJ., concur in result.
LEWIS and QUINCE, JJ., dissent.

NO MOTION FOR REHEARING WILL BE ALLOWED.

Application for Review of the Decision of the District Court of Appeal - Direct
Conflict of Decisions

Fifth District - Case No. 5D09-4648

(Orange County)

Stuart I. Hyman, P.A., Orlando, Florida,

for Petitioner

Stephen D. Hurm, General Counsel, Jason Helfant and Heather Rose Cramer,
Assistant General Counsel, Department of Highway Safety and Motor Vehicles,
Lake Worth, Florida,

for Respondent