

# Supreme Court of Florida

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No. SC07-196

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**ANGEL MONTERO,**  
Petitioner,

vs.

**STATE OF FLORIDA,**  
Respondent.

[March 19, 2009]

PER CURIAM.

We have for review Montero v. State, 947 So. 2d 634 (Fla. 4th DCA 2007), in which the Fourth District Court of Appeal relied upon its decision in Yisrael v. State, 938 So. 2d 546 (Fla. 4th DCA 2006) (en banc), disapproved in part, 993 So. 2d 952 (Fla. 2008), and certified conflict with the First District Court of Appeal's decision in Gray v. State, 910 So. 2d 867 (Fla. 1st DCA 2005). We have jurisdiction. See art. V, § 3(b)(4), Fla. Const.

We stayed proceedings in this case pending our disposition of Yisrael, in which we: (1) approved the decision of the First District in Gray, and (2)

disapproved the reasoning and rule of law articulated by the Fourth District in its underlying decision, but ultimately approved the result reached by that court on other grounds. See Yisrael v. State, 993 So. 2d 952, 960-61 (Fla. 2008). We subsequently issued an order directing the State to show cause why we should not exercise jurisdiction, summarily quash the decision under review, and remand for reconsideration in light of our decision in Yisrael. The State has now supplied this Court with a Department of Corrections business-records certification contained within the appellate record, which was used during sentencing to authenticate an attached “Crime and Time Report.” See Yisrael, 993 So. 2d at 960-61 (approving this authentication method); see also §§ 90.803(6), 90.902(11), Fla. Stat (2005). Further, the State has supplied a transcript of petitioner Montero’s sentencing hearing, which confirms that this combined record was properly admitted and considered by the trial court in sentencing Montero as a prison-releasee reoffender. See § 775.082(9)(a), Fla. Stat. (2003).

Accordingly, we grant the petition for review and, as we did in Yisrael, approve the ultimate result reached by the Fourth District Court of Appeal below, but disapprove its reliance upon the rule expressed in Yisrael v. State, 938 So. 2d 546 (Fla. 4th DCA 2006), because the business-records certification provided in this case was used as a permissible means of

authenticating an attached Crime and Time Report. See Yisrael, 993 So. 2d at 960-61; see also Smith v. State, 990 So. 2d 1162, 1164-65 (Fla. 3d DCA 2008); Parker v. State, 973 So. 2d 1167, 1168-69 (Fla. 1st DCA 2007), review denied, No. SC07-1847 (Fla. Feb. 19, 2009).

It is so ordered.

QUINCE, C.J., and PARIENTE, LEWIS, CANADY, POLSTON, and LABARGA, 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. 4D05-3823

(Broward County)

Carey Haughwout, Public Defender, and Marcy K. Allen, Assistant Public Defender, Fifteenth Judicial Circuit, West Palm Beach, Florida,

for Petitioner

Bill McCollum, Attorney General, Tallahassee, Florida, and Daniel P. Hyndman, Assistant Attorney General, West Palm Beach, Florida,

for Respondent