

Supreme Court of Florida

No. SC08-1398

STATE OF FLORIDA,
Petitioner,

vs.

LUIS ALFREDO LUCIANO,
Respondent.

[May 21, 2009]

PER CURIAM.

We have for review Luciano v. State, 983 So. 2d 759 (Fla. 5th DCA 2008), in which the Fifth District Court of Appeal certified conflict with the decision of the Third District Court of Appeal in Valdes v. State, 970 So. 2d 414 (Fla. 3d DCA 2007), approved in result, 3 So. 3d 1067 (Fla. 2009). At the time the Fifth District issued its decision in Luciano, the Third District's Valdes decision was pending review in this Court. We have jurisdiction. See art. V, § 3(b)(3)-(4), Fla. Const.; Jollie v. State, 405 So. 2d 418 (Fla. 1981).

We stayed proceedings in the present case pending disposition of Valdes v. State, 3 So. 3d 1067 (Fla. 2009), in which we ultimately approved the result of the

Third District's underlying Valdes decision. Once our decision in Valdes was final, we issued an order in the present case directing Respondent to show cause why we should not exercise jurisdiction, summarily quash the decision being reviewed, and remand for reconsideration in light of our decision in Valdes. Respondent in his response acknowledges the controlling authority of this Court's Valdes decision.

We accordingly exercise jurisdiction and grant the petition for review in the present case. The decision under review is quashed and this matter is remanded to the Fifth District for reconsideration upon application of this Court's Valdes decision.

It is so ordered.

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

Fifth District - Case No. 5D07-601

(Orange County)

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