

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC08-670
(Lower Tribunal Case No. 3D07-818)

MARTHA VALDEZ,

Petitioner,

vs.

HOMEOWNERS ASSISTANCE GROUP, LLC.,
A Florida limited liability company,

Respondent.

RESPONSE TO PETITIONER'S JURISDICTIONAL BRIEF

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STATEMENT OF THE CASE AND OF THE FACTS

The decision sought to be reviewed consists of a *per curiam* affirmance stating:

Affirmed. See Jones v. Flowers, 547 U. S. 220, 2345, (2006) (noting that due process may be met if notice of a tax deed certificate is posted on the front door upon receipt of a certified letter marked as undeliverable); Cusack v. Homeowners Assistance Group, LLC., 961 So. 2d 999 (Fla. 3 DCA 2007).

POINT ON APPEAL

DOES IT APPEAR THAT THE *PER CURIAM* DECISION OF THE THIRD DISTRICT COURT OF APPEAL THAT MERELY STATES:

Affirmed. See Jones v. Flowers, 547 U. S. 220, 2345, (2006) (noting that due process may be met if notice of a tax deed certificate is posted on the front door upon receipt of a certified letter marked as undeliverable); Cusack v. Homeowners Assistance Group, LLC., 961 So. 2d 999 (Fla. 3 DCA 2007)

IS IN DIRECT AND EXPRESS CONFLICT WITH ANY DECISION OF ANY DISTRICT COURT OR THIS COURT?

SUMMARY OF ARGUMENT

Since the decision of the Third District does not contain any facts nor does it expressly state a rule of law that conflicts with a rule pronounced by this Court or any other appellate court of this State the Court lacks jurisdiction to review it.

ARGUMENT

IT DOES NOT APPEAR THAT THE *PER CURIAM* DECISION OF THE THIRD DISTRICT COURT OF APPEAL THAT MERELY STATES:

Affirmed. See Jones v. Flowers, 547 U. S. 220, 2345, (2006) (noting that due process may be met if notice of a tax deed certificate is posted on the front door upon receipt of a certified letter marked as undeliverable); Cusack v. Homeowners Assistance Group, LLC., 961 So. 2d 999 (Fla. 3 DCA 2007).

IS IN DIRECT AND EXPRESS CONFLICT WITH ANY DECISION OF ANY DISTRICT COURT OR THIS COURT.

Under Art. V, § 3(b) (3), Fla. Const., an express and direct conflict of decisions is required for this Court to exercise its discretionary jurisdiction. This jurisdiction is quite *narrow*.¹ A *per curiam* opinion or decision of the type under scrutiny is insufficient to establish the predicate of conflict jurisdiction.² As stated clearly in *Gandy*:

In other words, absent a citation falling into one of the limited categories identified in Jollie and reaffirmed in Florida Star, a district court decision must contain “some statement,” indicating that it has “expressly adresse[d] a question of law within the four corners of the opinion itself,” which could “hypothetically.... create conflict if there

¹ *Mystan Marine, Inc. v. Harrington*, 339 So. 2d 200, 201 (Fla., 1976).

² *Gandy v. State*, 846 So. 2d 1141 (Fla., 2003).

were another opinion reaching a contrary result.” for this Court to have subject-matter jurisdiction to review the case pursuant to Article V, section 3(b)(3) of the Florida Constitution. [3]

Petitioner’s brief references events claimed by her to have occurred but which at present are not available for consideration as they do not appear anywhere in the decision sought to be reviewed. In addition, Petitioner has provided reference to rules regarding summary judgment but the decision under scrutiny does not, on its face, reveal anything dealing with those rules.

Petitioner has also referenced a United States Supreme Court decision but that reference is unavailing as it overlooks the requirement of showing a direct conflict with a decision of a court of this State.

Finally, Petitioner attempts to compare the recent decision of *Singleton v. Eli B. Investment Corp.*, 968 So. 2d 702 (Fla. 4th DCA, 2007) with her plight but fails to show how this *Singleton* in any way conflicts with the decision under review.

CONCLUSION

Petitioner fails to recognize that under the existing framework of judicial review the Courts of Appeal are intended to resolve the dispute that she characterizes in her brief. The Courts of Appeal are not meant to be way stations to this Court. Petitioner

³ 846 So. 2d at 1144.

has been afforded full review and that has resulted in the decision under scrutiny, one that does not conflict with any other appellate decision. Accordingly, the request to invoke this Court's jurisdiction must be denied.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing was on April 22, 2008, served via U.S. Mail upon Martha Valdez, 14808 S. W. 71 Lane, Miami, Florida 33193.

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CERTIFICATE OF COMPLIANCE WITH FONT REQUIREMENTS

I HEREBY CERTIFY that the Response Brief filed in this appeal complies with the font requirements of Rule 9.210(a)(2), of the Florida Rules of Appellate Procedure.

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