

Supreme Court of Florida

No. 76,826

ANTHONY FONTANA, Petitioner,

vs.

STATE OF FLORIDA, Respondent.

[July 3, 1991]

OVERTON, J.

This is a petition to review State v. Fontana, 566 So. 2d 937 (Fla. 4th DCA 1990), in which the district court reversed a trial court's order suppressing cocaine found on the passenger's side of a car and held that the passenger, Fontana, had no standing to challenge the search. We find conflict with Griggs v. State, 565 So. 2d 361 (Fla. 1st DCA 1990).¹

¹ We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

The district court's majority opinion sets forth the facts, and we note that the circumstances of this incident establish that Fontana was lawfully stopped and detained. We find that the district court correctly concluded that Fontana has no standing to challenge the search. We agree that Rakas v. Illinois, 439 U.S. 128 (1978), controls and fully approve the opinion of the district court.

It is so ordered.

SHAW, C.J. and McDONALD, BARKETT, GRIMES, KOGAN and HARDING, 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 - Direct Conflict of Decisions

Fourth District - Case No. 89-1310

(Broward County)

Richard L. Jorandby, Public Defender and Louis G. Carres,
Assistant Public Defender, Fifteenth Judicial Circuit, West Palm
Beach, Florida,

for Petitioner

Robert A. Butterworth, Attorney General; and Joan Fowler and
James J. Carney, Assistant Attorneys General, West Palm Beach,
Florida,

for Respondent