

Supreme Court of Florida

ORIGINAL

No. 77,659

DEBRA S. HARTLAND, Petitioner,

vs.

ALLSTATE INSURANCE COMPANY, Respondent.

[February 6, 1992]

PER CURIAM.

We have for review Hartland v. Allstate Insurance Co., 575 So.2d 290 (Fla. 1st DCA 1991), because of conflict with Jernigan v. Progressive American Insurance Co., 501 So.2d 748 (Fla. 5th DCA), review denied, 513 So.2d 1062 (Fla. 1987). We have jurisdiction pursuant to article V, section 3(b)(3), Florida Constitution.

We recently addressed the same issue which this case presents. Brixius v. Allstate Ins. Co., 589 So.2d 236 (Fla. 1991). In Brixius, we approved the district court's decision which denied uninsured motorist benefits under very similar circumstances, and we disapproved the decision in Jernigan. Accordingly, the district court's decision in this case is approved.

It is so ordered.

SHAW, C.J. and OVERTON, GRIMES, KOGAN and HARDING, JJ., concur.
BARKETT, J., concurs in result only.
McDONALD, J., dissents.

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

First District - Case No. 90-1789

(Duval County)

John S. Fagan, Jacksonville, Florida,

for Petitioner

Harris Brown and Reginald Luster of Osborne, McNatt, Shaw,
O'Hara, Brown & Obringer, Jacksonville, Florida,

for Respondent