

IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA,)
)
 Appellant,)
)
 vs.)
)
 FRANK J. BRADY, PHILIP M.)
 ECKARD: RONALD B. ELLIOT:)
 DAVID A. LIST:)
 HERMOGENES MANUEL,)
)
 Appellees.)

FILED

APR 30 1980

SID J. WHITE
CLERK SUPREME COURT

CASE NO.

59,054

STATE OF FLORIDA,)
)
 Appellant,)
)
 vs.)
)
 HERMOGENES MANUEL and)
 DAVID LIST,)
)
 Appellees.)

RESPONDENT LIST'S BRIEF ON JURISDICTION

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STATEMENT OF THE CASE AND FACTS

RESPONDENT LIST will adopt the Statement of the Case and Facts as set forth in the jurisdictional briefs filed on behalf of FRANK J. BRADY and RONALD B. ELLIOT.

POINT I

THE OPINION OF THE FOURTH DISTRICT
COURT OF APPEAL IN THE CASE SUB JUDICE
EXPRESSLY CONFLICTS WITH AYLIN v. STATE,
362 So.2d 435 (Fla. 1 DCA 1978).

Respondent LIST admits that the opinion of the Fourth District Court of Appeal in the case sub judice expressly conflicts with Aylin v. State, supra, and various other decisions out of the Second District Court of Appeal. However, Respondent does not seek certiorari jurisdiction of the Supreme Court. Since the issue below was resolved in favor of the State, the State no longer has standing to appellate remedy. It is fundamental that one who is not aggrieved cannot seek a remedy.

Assuming arguendo that this Court grants certiorari jurisdiction on the basis that it is within the Court's inherent power to solve conflicts between District Courts of Appeal in the State of Florida, Respondent urges this Court to accept certiorari jurisdiction only on this sole issue.¹

Further, it should be noted that only defendants below, LIST and MANUEL, raised both points of law in the appellate court and it appears that the State is seeking to

¹It is unclear to Respondent how the parties would be effected by the Court taking this action due to the fact that the motion to suppress was dispositive in the instant case.

have this Court assume jurisdiction over all the issues and all of the parties on the basis of Aylin conflict.

POINT II

THE OPINION RENDERED BY THE FOURTH DISTRICT COURT OF APPEAL IN THE CASE SUB JUDICE DOES NOT CONFLICT WITH VARIOUS OPINIONS RENDERED BY OTHER DISTRICT COURTS OF APPEAL.

Respondent LIST adopts the citations, authorities and argument set forth in the briefs of Respondents, FRANK J. BRADY and RONALD B. ELLIOT.

CONCLUSION

Respondent LIST respectfully prays that this Court does not grant a writ of certiorari and merely withhold any decision in the instant case (for the sake of conformity) until such time as the issues in Beasley v. State, 2 DCA, No. 79-286, opinion filed 3/ 14/80 and Reinersman v. State, 2 DCA No. 79-518, opinion filed 3/21/80 have been decided.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Respondent's Brief on Jurisdiction was this 28 day of April 1980, mailed to Robert L. Bogen, Assistant Attorney General, Palm Beach County, Regional Service Center, 111 Georgia Avenue, Room 204, West Palm Beach, FL 33401.

BY 

ALAN I. KARTEN, ESQ.