

IN THE SUPREME COURT OF FLORIDA

**FILED**

JUN 20 1983

STATE OF FLORIDA,

Petitioner

vs.

LARRY E. FITZPATRICK,

Respondent.

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CASE NO.: 63,752

DCA-5 NO. 82,1724

SID J. WHITE  
CLERK SUPREME COURT  
*[Signature]*  
Chief Deputy Clerk

RESPONDENT'S BRIEF ON JURISDICTION

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STATEMENT OF THE CASE AND FACTS

Respondent agrees with and adopts the Statement of the Case and Facts as cited in Petitioner's Jurisdictional Brief.

QUESTION PRESENTED

WHETHER THE DECISION OF THE  
FIFTH DISTRICT COURT OF APPEAL  
DIRECTLY AFFECTS A CLASS OF  
CONSTITUTIONAL OR STATE OFFI-  
CERS AND EXPRESSLY AND IN-  
DIRECTLY CONFLICTS WITH THE  
DECISION OF ANOTHER DISTRICT  
COURT OF APPEAL AND OF THIS  
COURT ON THE SAME QUESTION OF  
LAW

CLASS OF CONSTITUTIONAL OFFICERS  
BASIS FOR JURISDICTION

Respondent agrees the decision sought to be reviewed directly and exclusively affects the duties, and powers of a particular class of constitutional or state officers, to wit: State Attorneys.

The jurisdictional test under Articles V, §3 (b)(3), Fla. Const., as construed by this Court in Spradley v. State, 293 So.2d 697 (Fla. 1974), Heath v. Beckett, 327 So.2d 3 (Fla.1976), State v. Laiser, 322 So.2d 490 (Fla. 1975), and In the Interest of J.R.M., 346 So.2d 1033 (Fla 1977) and as required by Fla. R. App. P. 9.030 has been satisfied.

Respondent disagrees that the decision sought to be reviewed conflicts with a decision of this Court or another District Court of Appeal on the same question of law, and suggests, in view of the State's jurisdictional brief and Respondent's concurrence to the extent necessary to show jurisdiction as stated above, that no further briefing is necessary on the jurisdictional issue.

CONCLUSION

Based on the above and foregoing, it is respectfully submitted that jurisdiction has been properly demonstrated and that the Court should favorably exercise its discretion and grant review.

Respectfully submitted,


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to Richard W. Prospect, Asst. Attorney General by mail this 17th day of June, 1983.



PHILIP J. CHANFRAU, JR.  
ATTORNEYS FOR RESPONDENT