

IN THE SUPREME COURT OF FLORIDA

RONALD EDWARD HILL,
PETITIONER,

v.

STATE OF FLORIDA,
RESPONDENT.

Case No. 64,493

FILED

DEC 1 1963

SID J. WHITE
CLERK SUPREME COURT

Chief Deputy Clerk

ON DISCRETIONARY REVIEW OF THE DISTRICT
COURT OF APPEAL OF FLORIDA IN AND FOR THE SECOND DISTRICT

BRIEF OF RESPONDENT ON JURISDICTION

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STATEMENT OF THE CASE AND FACTS

Respondent accepts Petitioner's statement of the case and facts.

ARGUMENT

ISSUE I.

THE DECISION OF THE DISTRICT COURT OF APPEAL, SECOND DISTRICT, EXPRESSLY AND DIRECTLY CONFLICTS WITH THE DECISION OF ANOTHER DISTRICT COURT OF APPEAL ON THE SAME POINT OF LAW.

The Second District acknowledged the authority of Ehn v. Smith, 426 So.2d 570 (Fla. 5th DCA 1983) in its opinion. That authority was distinguished from the one at bar as no trial date had been set at the time Ehn's original counsel withdrew while a trial date had been set at the time Petitioner's original counsel withdrew. In essence, the Second District has pointed out an essential difference in Ehn from the case at bar. The result correctly shows Ehn to be inapplicable as opposed to applicable. It is most significant that no trial date had been set when Petitioner's counsel moved to withdraw. Whether substitute counsel seeks a continuance or cause a delay to a great part hinges on whether a trial date had been set. If a trial date is set, then at a particular point in time petitioner is assured a judicial examination of the issues in the case will ensue. To have a trial date, substitute counsel

is noticed the cause is ripe to proceed to trial; and, as such the cause has passed from motion practice and has advanced, moved, or passed forward from pleading stage to judgment stage.


There is uniformity in the application of the speedy trial rule throughout Florida. Petitioner has not shown otherwise. Petitioner fails to establish conflict of authority.

CONCLUSION

Because Petitioner has failed to demonstrate that the decision of the District Court of Appeal, Second District conflicts with the decision of the District Court of Appeal, Fifth District, in Ehn v. Smith, 426 So.2d 570 (Fla. 5th DCA 1983), Respondent prays that this court make and enter an order denying discretionary review.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Paul C. Helm, Assistant Public Defender, Hall of Justice Building, 455 North Broadway Avenue, Bartow, Florida 33830 on this 29th day of November, 1983.


OF COUNSEL FOR RESPONDENT