

IN THE SUPREME COURT OF FLORIDA

GEORGE WICKER, JR.,  
Petitioner,

v.

Case No. 64,958

STATE OF FLORIDA,  
Respondent.

**FILED**

SID J. WHITE

MAR 19 1984

CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

RESPONDENT'S BRIEF ON JURISDICTION

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STATEMENT OF THE CASE AND FACTS

Respondent accepts Petitioner's Statement of the Case and Facts.

ISSUE

WHETHER THE DECISION IN WICKER v. STATE, \_\_\_ So.2d \_\_\_ (Fla. 2d DCA Case No. 83-246) IS IN DIRECT CONFLICT WITH LINDSEY v. STATE, 416 So.2d 471 (Fla. 4th DCA 1982).

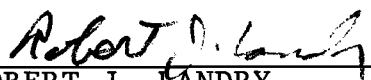
ARGUMENT

Petitioner notes that in Lindsey v. State, 416 So.2d 471 (Fla. 4th DCA 1982) the Fourth District Court of Appeal held that an information charging assault as an aggravating factor must contain the elements of assault. However, on March 8, 1984 this Honorable Court quashed the decision of the District Court of Appeal, finding that the accusatory pleading was not fatally defective. State v. Lindsey, \_\_\_ So.2d \_\_\_, 9 F.L.W. 78 (Fla. Case No. 62,498).

Consequently, there is now no conflict among decisions upon which to predicate the exercise of this court's jurisdiction. Review of the instant petition should be denied.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent by U.S. Regular Mail to: Allyn Giambalvo, Esquire, Assistant Public Defender, Criminal Courts Complex, 5100 - 144th Avenue North, Clearwater, Florida 33520 this 16<sup>th</sup> day of March, 1984.

Robert J. Landy  
Of Counsel for Respondent