

IN THE SUPREME COURT OF FLORIDA

WILLIAMS FREDERICK, JR.,)
)
 Petitioner,)
)
 vs.)
)
 STATE OF FLORIDA,)
)
 Respondent.)
 _____)

65,979

CASE NO. ~~55~~

PETITIONER'S BRIEF ON JURISDICTION

JAMES B. GIBSON
PUBLIC DEFENDER
SEVENTH JUDICIAL CIRCUIT

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FILED

SID J. WHITE

OCT 10 1984

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

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THE DISTRICT COURT OF APPEAL'S
DECISION DIRECTLY AND EXPRESSLY
CONFLICTS WITH THE DECISIONS IN
T. L. J. v. STATE, 449 So. 2d
1008 (Fla. 2d DCA 1984), AND
BENNETT v. STATE, 438 So. 2d
1034 (Fla. 2d DCA 1983).

TABLE OF CITATIONS

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<u>Bennett v. State,</u> 438 So. 2d 1034 (Fla. 2d DCA 1983)	i, 3
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IN THE SUPREME COURT OF FLORIDA

WILLIAM FREDERICK, JR.,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

CASE NO.

DCA NO. 83-1431

PETITIONER'S BRIEF ON JURISDICTION

PRELIMINARY STATEMENT

Petitioner was the Appellant in the Fifth District Court of Appeal and Respondent was the Appellee. In the brief the parties will be referred to as they appear before this Honorable Court.

The record on appeal has, by this Honorable Court's Order of August 17, 1984, been transmitted by the Clerk of the District Court for utilization in Frederick v. State, Case Number 65,534. The symbol "R" will be used to refer to the record on appeal.

STATEMENT OF THE CASE AND FACTS

Petitioner was charged by an information filed in the Circuit Court of Seminole County, Florida, with burglary of a dwelling. (R 104) He was tried without a jury and found guilty as charged. (R 112, 92) He was sentenced on September 22, 1983, to spend seven and a half years in prison. (R 121-125)

Notice of appeal was timely filed on September 29, 1983, and the Office of the Public Defender was appointed to represent Petitioner on appeal. (R 128, 136) His conviction was affirmed by the Fifth District Court of Appeal on September 6, 1984. (Appendix) Notice to invoke the discretionary jurisdiction of the Florida Supreme Court was filed on October 3, 1984, in the Fifth District Court of Appeal.

ARGUMENT

THE DISTRICT COURT OF APPEAL'S
DECISION DIRECTLY AND EXPRESSLY
CONFLICTS WITH THE DECISIONS IN
T. L. J. v. STATE, 449 So. 2d
1008 (Fla. 2d DCA 1984), AND
BENNETT v. STATE, 438 So. 2d
1034 (Fla. 2d DCA 1983).

Petitioner's conviction for burglary was affirmed upon the authority of Frederick v. State, 451 So. 2d 1066 (Fla. 5th DCA 1984), which relied upon the Third District Court of Appeal's decision in L. S. v. State, 446 So. 2d 1148 (Fla. 3d DCA 1984). The decision in Frederick v. State, supra, affirmed the revocation of Petitioner's probation which revocation was based upon his conviction for burglary in this case. That decision was certified to be in conflict with T. L. J. v. State, 449 So. 2d 1008 (Fla. 2d DCA 1984), and Bennett v. State, 438 So. 2d 1034 (Fla. 2d DCA 1983), and briefs on the merits have been filed in Frederick v. State, Florida Supreme Court Case Number 65,534.

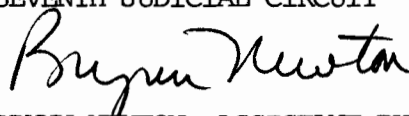
Since the decision in this case is based upon case law already certified to be in conflict with other District Court opinions, and since the District Court herein has acknowledged that conflict, the District Court has expressed direct conflict with another Florida case, and this Honorable Court has jurisdiction to review this case.

CONCLUSION

For the reasons expressed herein, Petitioner respectfully requests that this Honorable Court accept jurisdiction over this case, and review the District Court of Appeal's decision below.

Respectfully submitted,

JAMES B. GIBSON, PUBLIC DEFENDER
SEVENTH JUDICIAL CIRCUIT



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to the Honorable Jim Smith, Attorney General, 125 N. Ridgewood Avenue, Daytona Beach, Florida 32014; and Mr. William Frederick, Jr., Route 8 Box 200, Daytona Beach, Florida 32014, by mail, this 8th day of October, 1984.



ATTORNEY