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IN THE FLORIDA SUPREME COURT

STATE OF FLORIDA,

Petitioner,

v.

DAVID E. HARRIS,

Respondent.

CASE NO. 66,846

FILED

SID J. WHITE

MAY 2 1985

CLERK, SUPREME COURT

By [Signature]
Chief Deputy Clerk

RESPONDENT'S BRIEF ON JURISDICTION

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TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF CONTENTS	i
TABLE OF CITATIONS	ii
I PRELIMINARY STATEMENT	1
II STATEMENT OF THE CASE AND FACTS	2
III ARGUMENT	
<u>ISSUE PRESENTED</u>	
THE DISTRICT COURT'S OPINION IN THE PRE- SENT CASE EXPRESSLY AND DIRECTLY CONFLICTS WITH <u>BRADY v. STATE</u> , 457 So.2d 544 (Fla. 2d DCA 1984); <u>FLEMING v. STATE</u> , 456 So.2d 1300 (Fla. 2d DCA 1984); <u>BURKE v. STATE</u> , 456 So.2d 1245 (Fla. 5th DCA 1984) .	3
IV CONCLUSION	4
CERTIFICATE OF SERVICE	4

TABLE OF CITATIONS

<u>CASES</u>	<u>PAGE(S)</u>
<u>Boynton v. State</u> , 10 FLW 795 (Fla. 4th DCA March 27, 1985)	3
<u>Brady v. State</u> , 457 So.2d 544 (Fla. 2d DCA 1984)	3
<u>Burke v. State</u> , 456 So.2d 1245 (Fla. 5th DCA 1984)	3
<u>Fleming v. State</u> , 456 So.2d 1300 (Fla. 2d DCA 1984)	3
<u>Harry v. State</u> , 450 So.2d 926 (Fla. 4th DCA 1984)	3
<u>Jackson v. State</u> , 454 So.2d 691 (Fla. 1st DCA 1984)	3
<u>Oden v. State</u> , 10 FLW 37 (Fla. 1st DCA February 7, 1985)	3

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v.	:	CASE NO. 66,846
DAVID E. HARRIS,	:	
Respondent.	:	
_____	:	

RESPONDENT'S BRIEF ON JURISDICTION

I PRELIMINARY STATEMENT

Respondent, DAVID E. HARRIS, was the defendant and appellant in the courts below, and will be referred to as Respondent in this brief. The State of Florida, the prosecution and appellee below, will be referred to as Petitioner.

II STATEMENT OF THE CASE AND FACTS

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

III ARGUMENT

ISSUE PRESENTED

THE DISTRICT COURT'S OPINION IN THE PRESENT CASE EXPRESSLY AND DIRECTLY CONFLICTS WITH BRADY v. STATE, 457 So.2d 544 (Fla. 2d DCA 1984); FLEMING v. STATE, 456 So.2d 1300 (Fla. 2d DCA 1984); BURKE v. STATE, 456 So.2d 1245 (Fla. 5th DCA 1984).

Respondent agrees that the cases cited by Petitioner are clearly in conflict with Jackson v. State, 454 So.2d 691 (Fla. 1st DCA 1984) and Oden v. State, 10 FLW 37 (Fla. 1st DCA February 7, 1985).

Respondent would also point out that the cases cited in Petitioner's brief relied upon a Fourth District Court of Appeals case, Harry v. State, 450 So.2d 926 (Fla. 4th DCA 1984). The Fourth District Court has recently receded from its holding in Harry and is now in agreement with the First District Court of Appeal. See Boynton v. State, 10 FLW 795 (Fla. 4th DCA March 27, 1985).

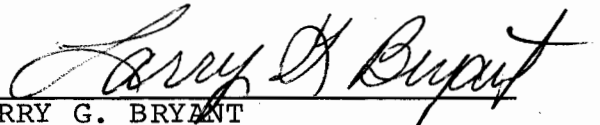
Respondent urges this Court to reject Petitioner's argument and to require the sentencing judge to state any reasons for departure from the sentencing guidelines in writing, acknowledged by the sentencing judge's signature.

IV CONCLUSION

Respondent respectfully requests this Honorable Court to reject Petitioner's argument and to affirm the opinion of the First District Court of Appeal in this cause.

Respectfully submitted,

MICHAEL E. ALLEN
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the above Respondent's Brief on Jurisdiction has been furnished by hand delivery to Assistant Attorney Gary L. Printy, The Capitol, Tallahassee, Florida 32301; and by U.S. Mail to Petitioner, David E. Harris, #727259, Post Office Box 699, Sneads, Florida 32460 on this 2nd day of May, 1985.



LARRY G. BRYANT