

**FILED**

SID J. WHITE

MAY 17 1985

CLERK, SUPREME COURT

By [Signature]  
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 CLEVE ANDREW MOBLEY, )  
 )  
 Respondent. )  
 \_\_\_\_\_ )

CASE NO. 66,929

RESPONDENT'S BRIEF ON JURISDICTION

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JEFFREY ANDERSON  
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Counsel for Respondent.

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PRELIMINARY STATEMENT

The Petitioner was the Appellee in the Fourth District Court of Appeal and the prosecution in the trial court. The Respondent was the Appellant, CLEVE ANDREW MOBLEY, and the defendant in the trial court.

In this brief, the parties will be referred to as the Petitioner and the Respondent.

The following symbols will be used:

"A"                      Respondent's Appendix to the  
Jurisdictional Brief.

STATEMENT OF THE CASE AND FACTS

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

SUMMARY OF THE ARGUMENT

The instant case does not expressly and directly conflict with the rule of law set forth in Cofield v. State, 453 So.2d 409 (Fla.1st DCA 1984).

REASONS FOR DENYING THE WRIT

Petitioner seeks review through "conflict" jurisdiction pursuant to Article V, Section 3(b)(3), Fla. Const. (1980) and Fla.R.App.P. 9.030(a)(2)(A)(iv). However, no express and direct conflict exists between the instant decision and Cofield v. State, 453 So.2d 409 (Fla.1st DCA 1984).

In Cofield, the First District Court of Appeal announced a rule of law that State v. Rhoden, 448 So.2d 1013 (Fla. 1984) did not apply to a situation where no contemporaneous objection had been offered as to the validity of retention of jurisdiction over a life sentence. In its decision, the Fourth District Court of Appeal states that its result is not mandated by Rhoden. (A2). Thus, there was no express and direct conflict with the First District's holding that Rhoden does not mandate that no contemporaneous objection is required. The Petitioner has thus improperly sought to invoke jurisdiction in this case.

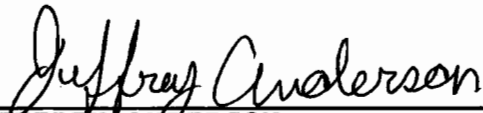


CONCLUSION

Based on the argument and authorities cited herein, Respondent respectfully requests this Honorable Court to deny discretionary review of this case.

Respectfully submitted,

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\_\_\_\_\_  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy hereof has been furnished by courier, to GEORGINA JIMENEZ-OROSA, Assistant Attorney General, Room 204 Elisha Newton Dimick Building, 111 Georgia Avenue, West Palm Beach, FL 33401, this 15th day of May, 1985.

  
\_\_\_\_\_  
Of Counsel