

IN THE SUPREME COURT OF FLORIDA

**FILED**

SID J. WHITE

JUL 21 1987

CLERK, SUPREME COURT

By

CASE NO. 70,150

STATE OF FLORIDA,

Petitioner,

vs.

GERARDO FUNDORA,

Respondent.

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ON PETITION FOR DISCRETIONARY REVIEW

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BRIEF OF RESPONDENT ON THE MERITS

MICHAEL E. ALLEN  
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SUMMARY OF ARGUMENT

ARGUMENT

Since the legal issues involved herein are the same as those involved in State v. Ginebra, for his argument respondent refers this Court to the brief and motion for rehearing filed in behalf of Lazaro Ginebra. The said brief and motion are included in the appendix to this brief.

CONCLUSION

Upon the arguments and authorities set forth in the brief and motion for rehearing heretofore filed in behalf of Lazaro Ginebra, the Third District's opinion in Fundora v. State should be affirmed.

Respectfully submitted,




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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to Richard L. Polin, Assistant Attorney General, Florida Regional Service Center, Ruth Bryan Owens Rhode Building, 401 N.W. 2nd Avenue (Suite 820), Miami, Florida 33128 and to Mr. Gerardo Fundora, #100022, Polk Correctional Institution, 3876 Evans Road, Box 50, Polk City, Florida 33868, this 20<sup>th</sup> day of July, 1987.

  
MICHAEL E. ALLEN