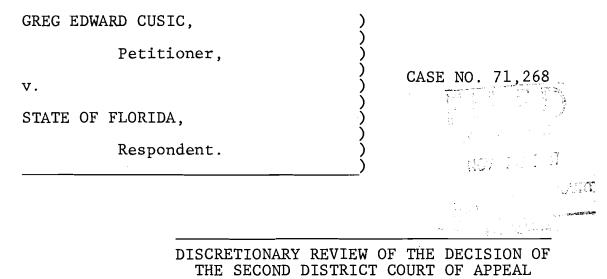
IN THE SUPREME COURT OF FLORIDA



STATE OF FLORIDA

JURISDICTIONAL BRIEF OF RESPONDENT

ROBERT A. BUTTERWORTH ATTORNEY GENERAL

KATHERINE V. BLANCO Assistant Attorney General 1313 Tampa Street, Suite 804 Park Trammell Building Tampa, Florida 33602 (813) 272-2670

COUNSEL FOR RESPONDENT

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SUMMARY OF THE ARGUMENT

In its opinion below, <u>Cusic v. State</u>, <u>So.2d</u>, 12 F.L.W. 2225 (Fla. 2d DCA, Opinion filed September 11, 1987), the Second District Court acknowledged that its decision was in conflict with <u>Hall v. State</u>, 12 F.L.W. 1901 (Fla. 1st DCA August 5, 1987), Accordingly, this court's discretionary jurisdiction is properly invoked.

ISSUE

ARGUMENT

THE OPINION OF THE SECOND DISTRICT COURT OF APPEAL IN CUSIC V. STATE IS IN EXPRESS AND DIRECT CONFLICT WITH THE DECISION OF THE FIRST DIS-TRICT COURT OF APPEAL IN HALL V. STATE

In <u>Cusic v. State</u>, 12 F.L.W. 2225 (Fla. 2d DCA, Opinion filed September 11, 1987), the Second District Court affirmed the denial of the Petitioner's Motion for Post-Conviction Relief on the authority of <u>McCuiston v. State</u>, 507 So.2d 1185 (Fla. 2d DCA 1987); and, in so doing, the Second District acknowledged conflict with <u>Hall v. State</u>, 12 F.L.W. 1901 (Fla. 1st DCA August 5, 1987) [511 So.2d 1038]. Both <u>McCuiston</u> and <u>Hall</u> are currently pending before this Honorable Court. <u>McCuiston v. State</u>, Fla. S.Ct. #70,706 (Oral argument scheduled January 7, 1988) and <u>State v. Hall</u>, Fla. S.Ct. #70,078. Accordingly, Petitioner has properly invoked this Court's discretionary jurisdiction.

CONCLUSION

Based on the foregoing facts argument and authorities, this court's discretionary jurisdiction is properly invoked.

Respectfully submitted,

ROBERT A. BUTTERWORTH ATTORNEY GENERAL

Latherine Blanco

KATHERINE V. BLANCO Assistant Attorney General Park Trammell Building 1313 Tampa Street, Suite 804 Tampa, Florida 33602 (813) 272-2670

COUNSEL FOR RESPONDENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Greg Edward Cusic #226410, Apalachee Correctional Institute, P. O. Box 699W N-45, Sneads, Florida 32460 this $/3^{+/-}_{-}$ day of November, 1987.

Flores

OF COUNSEL FOR RESPONDENT