

IN THE SUPREME COURT OF FLORIDA

RAYMOND EUGENE CLARK,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

Case No. 76006

FILED

JUN 14 1990

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CLERK, SUPREME COURT

Deputy Clerk

BRIEF OF RESPONDENT ON JURISDICTION

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SUMMARY OF THE ARGUMENT

This Court should not accept jurisdiction on the instant case. While the decision in Holcombe v. State, 553 So.2d 1337 (Fla. 1st DCA 1989) is in conflict with the decision in the instant case the State asserts that the Second District's decision is the better view.

ARGUMENT

ISSUE

WHETHER THIS COURT SHOULD
ACCEPT JURISDICTION ON
THE INSTANT CASE

This Court should not accept jurisdiction on the instant case. While the decision in Holcombe v. State, 553 So.2d 1337 (Fla. 1st DCA 1989) is in conflict with the decision in the instant case the State asserts that the Second District's decision is the better view.

In Holcombe the court relied on authorities which dealt with extensions rather than modifications of probation. The facts of the instant case indicate that Petitioner's probation was modified, not extended.

However, if this Court wishes to resolve the conflict the State asserts that the decision of the Second District is the correct decision.

CONCLUSION

Based on the foregoing arguments and citations of authority Respondent asks this Court to decline review of this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to STEPHEN KROSSCHELL, Assistant Public Defender, Polk County Courthouse, P.O. Box 9000--Drawer PD, Bartow, Florida 33830, this 12th day of June, 1990.

Brenda S. Taylor
OF COUNSEL FOR RESPONDENT