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**FILED**  
SID J. WHITE  
APR ' 1 1991  
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By [Signature]  
Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

TONY RAY PALEN,  
Petitioner,

v.

CASE NO. 77,592

STATE OF FLORIDA,  
Respondent.

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RESPONDENT'S BRIEF ON JURISDICTION

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SUMMARY OF ARGUMENT

Although the decision of the Fifth District Court of Appeal in the instant case disagreed with the decision of another district court of appeal, the issue is not significant enough to warrant the court taking discretionary jurisdiction.

ARGUMENT

THE COURT SHOULD NOT EXERCISE  
DISCRETIONARY JURISDICTION.


The decision of the Fifth District Court of Appeal disagreed with the decision in *Coupe v. State*, 564 So.2d 1199 (Fla. 1st DCA 1990). However, the issue in this case, whether an *Anders* brief may raise a minor issue in a footnote, is not significant enough for the court to exercise discretionary jurisdiction in the instant case.

CONCLUSION

Based on the arguments and authorities presented herein, respondent respectfully requests the court to decline to exercise its discretionary jurisdiction in the instant case.

Respectfully submitted,

ROBERT A. BUTTERWORTH  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above brief on jurisdiction has been furnished by delivery to Michael S. Becker, assistant public defender, this 29th day of March, 1991.



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James N. Charles  
Of Counsel