

025

FILED

SID J. WHITE

~~DEC 13~~ 1991

CLERK, SUPREME COURT.

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

DENNIS BUCKHALTER,
Petitioner,

v.

CASE NO. 78,983

STATE OF FLORIDA,
Respondent.

_____ /

RESPONDENT'S BRIEF ON JURISDICTION

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

✓ JAMES N. CHARLES
ASSISTANT ATTORNEY GENERAL
Fla. Bar #611840
210 N. Palmetto Ave.
Suite 447
Daytona Beach, FL 32114
(904) 238-4990

COUNSEL FOR RESPONDENT

TABLE OF CONTENTS

PAGES:

TABLE OF AUTHORITIES.....ii

SUMMARY OF ARGUMENT.....1

ARGUMENT:

WHETHER THE DISTRICT COURT'S DECISION
DIRECTLY AND EXPRESSLY RECOGNIZES
CONFLICT WITH JOHNSON V. STATE.....2

CONCLUSION.....3

CERTIFICATE OF SERVICE.....3

TABLE OF AUTHORITIES

CASES:

PAGES:

<u>Buckhalter v. State,</u> 16 FLW D2772 (Fla. 5th DCA October 31, 1991).....	2
<u>Johnson v. State,</u> 568 So.2d 519 (Fla. 1st DCA 1990).....	2

OTHER AUTHORITIES:

Fla.R.App.P. 9.030(2)(A).....	2
-------------------------------	---

SUMMARY OF ARGUMENT

Even though the district court recognized conflict, this court may decline to accept jurisdiction.

ARGUMENT

WHETHER THE DISTRICT COURT'S
DECISION DIRECTLY AND EXPRESSLY
RECOGNIZES CONFLICT WITH JOHNSON V.
STATE.


The district court recognized conflict with *Johnson v. State*, 568 So.2d 519 (Fla. 1st DCA 1990). *Buckhalter v. State*, 16 FLW D2772 (Fla. 5th DCA October 31, 1991). Even though the district court recognized conflict, this court may decline to accept jurisdiction. Rule 9.030(2)(A), Fla.R.App.P.

CONCLUSION

Based on the arguments and authorities presented herein, the State of Florida respectfully requests the court to decline to accept jurisdiction.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

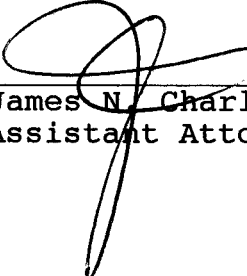


JAMES N. CHARLES
ASSISTANT ATTORNEY GENERAL
Fla. Bar #611840
210 N. Palmetto Ave.
Suite 447
Daytona Beach, FL 32114
(904) 238-4990

COUNSEL FOR RESPONDENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing brief has been furnished by delivery to Brynn Newton, assistant public defender and counsel for Petitioner, this 11th day of December, 1991.



James N. Charles
Assistant Attorney General