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JUN 3 1992

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

DARRELL MITCHELL,
Petitioner,

v.

CASE NO. 79,838
5th DCA CASE NO. 91-1643

STATE OF FLORIDA,
Respondent.

ON DISCRETIONARY REVIEW FROM THE DISTRICT COURT OF APPEAL,
FIFTH DISTRICT

RESPONDENT'S JURISDICTIONAL BRIEF

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SUMMARY OF ARGUMENT

The state acknowledges Jollie v. State, 405 So.2d 418 (Fla. 1981), and requests this court not to accept discretionary review of this case for the reasons stated in its jurisdictional brief filed in Joiner v. State, case no. 79,567. The district court's decisions in Joiner and in this case are in neither express nor direct conflict with any decision of this court or of another district court of appeal.

ARGUMENT

THE DISTRICT COURT'S DECISION IS IN
NEITHER EXPRESS NOR DIRECT CONFLICT
WITH A DECISION OF THIS COURT OR OF
ANOTHER DISTRICT COURT OF APPEAL.

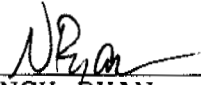
The state acknowledges Jollie v. State, 405 So.2d 418 (Fla. 1981), and requests this court not to accept discretionary review of this case for the reasons stated in its jurisdictional brief filed in Joiner v. State, case no. 79,567. The district court's decisions in Joiner and in this case are in neither express nor direct conflict with any decision of this court or of another district court of appeal. This court should accordingly decline to exercise its discretionary jurisdiction in this matter. E.g., Department of Health and Rehabilitative Services v. National Adoption Counseling Service, Inc., 498 So.2d 888 (Fla. 1986); Reaves v. State, 485 So.2d 829 (Fla. 1986); Jenkins v. State, 385 So.2d 1356, 1359 (Fla. 1980).

CONCLUSION

The respondent requests this court to decline to exercise its discretionary jurisdiction in this matter.

Respectfully submitted,

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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing Jurisdictional Brief has been delivered by hand to Paolo G. Annino, Assistant Public Defender, at 112-A Orange Avenue, Daytona Beach, Florida 32114, this 31st day of May, 1992.



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