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FILED

SID J. WHITE

JUN 1 1992

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

JOSEPH INNES,
Petitioner,

v.

Case No. 79,902

STATE OF FLORIDA.
Respondent.

_____ /

ON DISCRETIONARY REVIEW FROM THE
SECOND DISTRICT COURT OF APPEAL, STATE OF FLORIDA

RESPONDENT'S BRIEF ON JURISDICTION

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TABLE OF CONTENTS

	<u>PAGE NO.</u>
TABLE OF CITATIONS.....	ii
SUMMARY OF THE ARGUMNT.....	1
ARGUMENT.....	2
ISSUE	
WHETHER THIS COURT SHOULD ACCEPT CONFLICT JURISDICTION OVER THIS CASE WHEN PETITIONER HAS RECEIVED THE BENEFIT OF HIS PLEA NEGOTIATION?	
CONCLUSION.....	3
CERTIFICATE OF INSURANCE.....	3

TABLE OF CITATIONS

PAGE NO.

Lang v. State,
566 So.2d 1354 (Fla. 5th DCA 1990).....2

OTHER AUTHORITIES

Section 39.111 (c).....2

SUMMARY OF THE ARGUMENT

Because Petitioner's sentence would be no different if this Court were to accept jurisdiction and remand for resentencing, this Court is urged not to accept conflict jurisdiction. After all, he willingly entered into the plea negotiation and the sentencing procedure was unobjected to by the public defender.

ARGUMENT

ISSUE

WHETHER THIS COURT SHOULD ACCEPT CONFLICT JURISDICTION OVER THIS CASE WHEN PETITIONER HAS RECEIVED THE BENEFIT OF HIS PLEA NEGOTIATION?


Respondent, the State of Florida, requests that this Court decline the opportunity to accept conflict jurisdiction over this case. Though it is recognized that the Second District Court of Appeals did express conflict with the decision in Lang v. State, 566 So.2d 1354 (Fla. 5th DCA 1990), no particular harm or illegality has befallen Petitioner. Even if this Court were to conclude that a sentencing court must fully and carefully enunciate all aspects of Section 39.111 as it pertains to adult sentencing of juveniles, the end result of this case would not be any different. After all, the public defender below lodged no timely objection to the sentencing procedure and the trial court took most all of the factors enunciated in 39.111(c) into account. (R. 152,153) Thus, inasmuch as Petitioner actively sought and received the specific sentence he bargained for, this Court is urged to decline jurisdiction and leave Petitioner to the benefit of his bargain.


CONCLUSION

WHEREFORE, this Court is urged to decline jurisdiction in 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 forwarded by U.S. Mail to Allyn Giambalvo, Assistant Public Defender, Criminal Court Complex, 5100 144th Avenue North, Clearwater, Florida 34620 this 29th day of May, 1992.


COUNSEL FOR RESPONDENT