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FILED
SID J. WHITE
JAN 4 1993
CLERK, SUPREME COURT.
By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

LERoy TOOMBS, :
Appellant, :
v. : CASE NO. 80,835
STATE OF FLORIDA, :
Appellee. :
_____ /

RESPONDENT'S BRIEF ON JURISDICTION

NANCY A. DANIELS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

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IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA,

Petitioner,

vs.

CASE NO. 80,835

LEROY TOOMBS,

Respondent.

RESPONDENT'S BRIEF ON JURISDICTION

I STATEMENT OF THE CASE AND FACTS

Respondent accepts petitioner's statement of the case and facts.

II SUMMARY OF ARGUMENT

Respondent does not oppose review by this Court.

III ARGUMENT

ISSUE:

WHETHER THE DECISION OF THE DISTRICT COURT OF APPEAL IN THIS CASE EXPRESSLY AND DIRECTLY CONFLICTS WITH THE DECISION OF THE SECOND DISTRICT COURT OF APPEAL IN BONNER V. STATE, 599 SO. 2D 599 (FLA. 2D DCA 1992) ON THE SAME QUESTION OF LAW. (RESTATED)

The issue in the present case is currently pending review by this Court in numerous cases, including Anderson v. State, 592 So. 2d 1119 (Fla. 1st DCA 1991), review pending, case no. 79,535 and Hodges v. State, 596 So. 2d 481 (Fla. 1st DCA 1992), review pending, case no. 79,728. Because a decision in the foregoing cases will control this case, respondent does not oppose review by this Court.

IV CONCLUSION

Based on the foregoing, respondent does not oppose the exercise of this Court's discretion to review this case.

Respectfully submitted,

NANCY A. DANIELS
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SECOND JUDICIAL CIRCUIT

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CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been forwarded by hand delivery to James W. Rogers, Assistant Attorney General, Criminal Appeals Division, The Capitol, Tallahassee, Florida, 32301 this 4th day of January, 1993.

Chi W. Hoeg for

JOHN R. DIXON