IN THE SUPREME COURT OF FLORIDA

ALICIA BAILEY,

      Petitioner,

v.

      Case No. 81,483

STATE OF FLORIDA,

      Respondent.

_____/

DISCRETIONARY REVIEW OF DECISION OF THE
DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

BRIEF OF RESPONDENT ON THE MERITS

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/aoh

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SUMMARY OF THE ARGUMENT

The respondent acknowledges that this Court recently decided this issue in the Petitioner's favor.

ARGUMENT

ISSUE

**WHETHER THE TRIAL COURT ERRED IN REFUSING TO
ALLOW CREDIT FOR TIME NOT SERVED.**

The respondent acknowledges that this case is controlled by this Court's decision in <u>Tripp v. State</u>, 18 Fla. L. Weekly S166 (Fla. March 25, 1993). However, the respondent would note that <u>Tripp</u> is still pending on rehearing.

CONCLUSION

Based on the foregoing arguments and citations of authority, the respondent respectfully requests that this Honorable Court adopt it final opinion in <u>Tripp</u> in the instant case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to STEPHEN KROSSCHELL, Assistant Public Defender, Polk County Courthouse, P. O. Box 9000--Drawer PD, Bartow, Florida, 33803, this /6th day of April, 1993.

Carol M. Dittmar

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OF COUNSEL FOR RESPONDENT