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**FILED**

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**MAY 3 1993**

**CLERK, SUPREME COURT**

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Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

CASE NO. 81,616

**DARRYL CRAIG RANSAW,**

Petitioner,

vs.

**STATE OF FLORIDA,**

Respondent.

\*\*\*\*\*

ON CERTIORARI FROM THE FOURTH DISTRICT COURT OF APPEAL

\*\*\*\*\*

**ANSWER BRIEF OF THE STATE ON JURISDICTION**

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PRELIMINARY STATEMENT

Petitioner, Darryl Craig Ransaw, the criminal defendant and appellant below in the appended Ransaw v. State, 18 F.L.W. D674 (Fla. 4th DCA March 10, 1993), the decision over which review is sought, will be referred to as "petitioner." Respondent, the State of Florida, the prosecuting authority and appellee below, will be referred to as "the State."

No references to the record on appeal will be either necessary or appropriate. Cf. e.g. Jenkins v. State, 385 So.2d 1356, 1359 (Fla. 1980) and Reaves v. State, 485 So.2d 829, 830 note 3 (Fla. 1986).

Any emphasis will be supplied by the State unless otherwise specified.

STATEMENT OF THE CASE AND FACTS

Those details relevant to a resolution of the threshold jurisdictional question are related in the unanimous decision of the Fourth District Court of Appeal in Ransaw v. State, 18 F.L.W. D674, which the State adopts as its statement of the case and facts. This decision reads, in its entirety, as follows:

Affirmed. See Metcalf v. State, 18 Fla. L. Weekly D427 (Fla. 4th DCA January 27, 1993).

Id. The State thus rejects petitioner's "statement of the case and facts," plus those passages in other portions of his jurisdictional brief and appendix containing factual assertions, inasmuch as these statements impermissibly stray from the face of this decision. Jenkins v. State, 385 So. 2d 1356, 1359; Reaves v. State, 485 So. 2d 829, 830 note 3.

SUMMARY OF ARGUMENT

Absolutely no basis for this Court's assumption of constitutional construction certiorari jurisdiction over the decision below exists.

## ISSUE

THE DECISION BELOW DOES NOT EXPRESSLY  
CONSTRUE THE STATE OR FEDERAL CONSTITUTIONS  
AND THIS COURT SHOULD DENY PETITIONER'S  
REQUEST FOR REVIEW

## ARGUMENT

Petitioner seeks to invoke the discretionary jurisdiction of this Honorable Court under Article V, Section 3(b)(3) of the Constitution of the State of Florida to review the Fourth District Court of Appeal's adverse decision in Ransaw v. State. Petitioner in essence alleges that this decision "expressly construe[s] a provision of the state or federal constitution[s]" within the meaning of Fla.R.App.P. 9.030(a)(2)(A)(ii). Petitioner is wrong.

In order to expressly construe a provision of the state and/or federal constitutions for the purpose of invoking this Court's discretionary jurisdiction, a district court's decision must explicitly "explain, define or otherwise eliminate existing doubts arising from the language or terms of the constitutional provision." Ogle v. Pepin, 273 So. 2d 391, 393 (Fla. 1973), quoting Armstrong v. City of Tampa, 106 So. 2d 407, 409 (Fla. 1958). Moreover, such a construction must be clear from the face of the district court's decision. Compare School Board of Pinellas County v. District Court of Appeal, 467 So. 2d 985 (Fla. 1985). The decision below fails to meet these criteria.

The State acknowledges that the Fourth District's decision below cited Metcalf v. State, 18 F.L.W. D427 (Fla. 4th DCA January 27, 1993), review pending, Case No. 81,612 (Fla. April 20, 1993), which does contain a passing reference to that

defendant's "due process rights." However, the Fourth District did not, in any manner, expressly construe either of the aforementioned constitutional provisions in either Metcalf v. State or in the instant decision within the meaning of the aforequoted language. Petitioner's reliance upon Jollie v. State, 405 So. 2d 418 (Fla. 1981) for the innate proposition that the appellate court's citation to Metcalf v. State automatically vests this Court with jurisdiction to review Ransaw v. State is misplaced. Metcalf v. State, the "lead opinion" here, does not display a firm basis for this Court's assumption of jurisdiction on its face within the meaning of Jollie v. State, 418 So. 2d 418, 419.

Thus, this Court should decline to exercise its discretionary jurisdiction to review Ransaw v. State. The mere fact that petitioner understandably disagrees quite vigorously with the Fourth District's negative resolution of his direct appeal does not change matters. See generally Jenkins v. State, 385 So. 2d 1356, 1359 and Reaves v. State, 485 So. 2d 829, 830 note 3.



CONCLUSION

WHEREFORE respondent, the State of Florida, respectfully submits that this Honorable Court must summarily DENY the petition for writ of constitutional construction certiorari.

Respectfully submitted,

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APPENDIX

STATE v. MUNDEN. 4th District. #91-3600. March 10, 1993. Appeal of a non-final order from the Circuit Court for Broward County; Susan Lebow, Judge.  
(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

\* \* \*

STATE v. AICHER. 4th District. #92-0013. March 10, 1993. Appeal of a non-final order from the Circuit Court for Broward County; Susan Lebow, Judge.  
(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

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STATE v. CARLTON. 4th District. #92-0228. March 10, 1993. Appeal of a non-final order from the Circuit Court for Broward County; Susan Lebow, Judge.

(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

\* \* \*

STATE v. WOHANKA. 4th District. #92-0288. March 10, 1993. Appeal of a non-final order from the Circuit Court for Broward County; Susan Lebow, Judge.

(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

\* \* \*

STATE v. BAUMRUCKER. 4th District. #92-0303. March 10, 1993. Appeal of a non-final order from the Circuit Court for Broward County; Susan Lebow, Judge.

(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

\* \* \*

STATE v. LASALA. 4th District. #92-0330. March 10, 1993. Appeal of a non-final order from the Circuit Court for Broward County; Susan Lebow, Judge.

(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

\* \* \*

STATE v. CARIN. 4th District. #92-0469. March 10, 1993. Appeal of non-final orders from the Circuit Court for Broward County; Susan Lebow, Judge.

(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

\* \* \*

STATE v. RACK. 4th District. #92-0712. March 10, 1993. Appeal of a non-final order from the Circuit Court for Broward County; Susan Lebow, Judge.

(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

\* \* \*

STATE v. SHEPHERD. 4th District. #92-0746. March 10, 1993. Appeal of a non-final order from the Circuit Court for Broward County; Susan Lebow, Judge.

(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

\* \* \*

STATE v. NEVADOMSKI. 4th District. #92-0763. March 10, 1993. Appeal of a non-final order from the Circuit Court for Broward County; Susan Lebow, Judge.

(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

\* \* \*

STATE v. SMITH. 4th District. #92-1256. March 10, 1993. Appeal of a non-final order from the Circuit Court for Broward County; Susan Lebow, Judge.

(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

\* \* \*

STATE v. SMITH. 4th District. #92-1257. March 10, 1993. Appeal of a non-final order from the Circuit Court for Broward County; Susan Lebow, Judge.

(PER CURIAM.) Having accepted jurisdiction pursuant to Florida Rule of Appellate Procedure 9.160, this court reverses the suppression order that was presented in this appeal for review, and remands the case to the trial court. *See State v. Rochelle*, 609 So. 2d 613 (Fla. 4th DCA 1992). (GLICKSTEIN, C.J., ANSTEAD and HERSEY, JJ., concur.)

\* \* \*

FULTON v. STATE. 4th District. #92-3656. March 10, 1993. Appeal from the Circuit Court for Broward County. We summarily affirm pursuant to 9.315(a), Florida Rules of Appellate Procedure.

AFFIRMED.

FEAMAN v. FEAMAN. 4th District. #92-3156. March 10, 1993. Appeal of a non-final order from the Circuit Court for Palm Beach County. We reverse and remand the order awarding interim attorney's fees and costs for failure to make findings to allow for meaningful appellate review. *See Robbie v. Robbie*, 591 So. 2d 1006 (Fla. 4th DCA 1991).

NORMAN v. STATE. 4th District. #92-1149. March 10, 1993. Appeal from the Circuit Court for St. Lucie County. Appellant's sentence is affirmed on the authority of *Johnson v. State*, 18 Fla. L. Weekly S55 (Fla. Jan. 14, 1993); and *State v. Rucker*, 18 Fla. L. Weekly S93 (Fla. Feb. 4, 1993).

DAVIS v. STATE. 4th District. #92-0422. March 10, 1993. Appeal from the Circuit Court for Broward County. Affirmed upon authority of *Rucker v. State*, 18 Fla. L. Weekly S93 (Fla. Feb. 4, 1993), and *State v. Johnson*, 18 Fla. L. Weekly S55 (Fla. Jan. 14, 1993).

RANSAW v. STATE. 4th District. #92-1386. March 10, 1993. Appeal from the Circuit Court for Broward County. Affirmed. *See Metcalf v. State*, 18 Fla. L. Weekly D427 (Fla. 4th DCA January 27, 1993).

(FARMER, J., concurring specially.) I concur only for the reason I expressed in *Metcalf v. State*, 18 Fla. L. Weekly D427 (Fla. 4th DCA January 27, 1993).

CERTIFICATE OF SERVICE

I CERTIFY that a true copy of the foregoing has been furnished by courier to: Mr. Allen J. DeWeese, Esq., Assistant Public Defender, 421 3rd Street, West Palm Beach, FL 33401, this 30th day of April, 1993.

*John Tiedemann*

\_\_\_\_\_  
Of Counsel