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CLERK, SUPREME COURT

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Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

TOMMY LEE WILLIAMS,

:

Petitioner,

:

v.

:

DCA CASE NO. 93-1580

SUP. CT. NO. 82,914

STATE OF FLORIDA,

:

Respondent.

:

BRIEF OF PETITIONER ON JURISDICTION

NANCY A. DANIELS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

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IN THE SUPREME COURT OF FLORIDA

TOMMY LEE WILLIAMS,
Petitioner,

v.

DCA CASE NO. 93-1580
SUP. CT. NO. 82,914

STATE OF FLORIDA,
Respondent.

_____ /

BRIEF OF PETITIONER ON JURISDICTION

I. PRELIMINARY STATEMENT

Tommy Lee Williams was the "defendant" in the trial court, "appellant" before the District Court of Appeal, First District, and will be referred to in this brief as "petitioner". Filed with this brief is an appendix containing a copy of the district court's decision as well as other matters pertinent to the jurisdiction of the Court. Reference to the appendix will be by use of the symbol "A" followed by the appropriate page number in parentheses.

II. STATEMENT OF THE CASE AND FACTS

By a per curiam opinion dated November 22, 1993, the District Court of Appeal, First District, affirmed petitioner's conviction, citing to its decision in Rock v. State, 622 So.2d 487 (Fla. 1st DCA 1993)(A-1). Notice To Invoke Discretionary Jurisdiction was timely filed December 21, 1993 (A-2-3).

III. SUMMARY OF ARGUMENT

Since the length of the actual argument is well within the page limitations for a summary of argument, a formal summary will be omitted here.

IV. ARGUMENT

THE DECISION RENDERED IN PETITIONER'S CASE BY THE DISTRICT COURT OF APPEAL, FIRST DISTRICT, EXPRESSLY AND DIRECTLY CONFLICTS WITH DECISIONS OF OTHER DISTRICT COURTS OF APPEAL OR OF THE SUPREME COURT OF FLORIDA ON THE SAME QUESTION OF LAW.

Petitioner's conviction was affirmed on authority of Rock v. State, supra. The appellant in Rock timely invoked the jurisdiction of this Court (A-4-5). Rock v. State, Case No. 82,530. Rock is pending jurisdiction in this Court. See Zilliams v. State, 18 FLW D2449 (Fla. 1st DCA Nov. 19, 1993)(on rehearing).

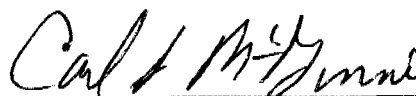
If the Court accepts the Rock case for review on the merits, it must also accept the instant case on authority of Jollie v. State, 405 So.2d 418 (Fla. 1981)(district court opinion which cites as controlling authority a decision that is either pending review in or has been reversed by supreme court constitutes prima facie express conflict and allows supreme court to exercise its jurisdiction).

V. CONCLUSION

Based upon the above, petitioner urges the Court to accept jurisdiction should it accept jurisdiction in Rock v. State, Case No. 82,530.

Respectfully submitted,

NANCY A. DANIELS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

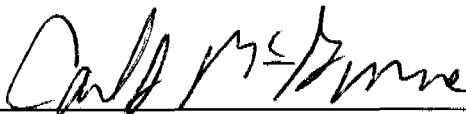


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing Brief of Petitioner on Jurisdiction has been furnished by delivery to Mr. Bradley R. Bischoff, Assistant Attorney General, Criminal Appeals Division, The Capitol, Plaza Level, Tallahassee, Florida, 32301; and a copy has been mailed to petitioner, Mr. Tommy Lee Williams, on this 27th day of December, 1993.



CARL S. MCGINNES

IN THE SUPREME COURT OF FLORIDA

TOMMY LEE WILLIAMS,	:	
Petitioner,	:	
v.	:	DCA CASE NO. 93-1580
STATE OF FLORIDA,	:	SUP. CT. NO. 82,914
Respondent.	:	

A P P E N D I X

TO

BRIEF OF PETITIONER ON JURISDICTION

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Notice To Invoke Discretionary Jurisdiction in <u>Rock v. State</u> , 622 So.2d 487 (Fla. 1st DCA 1993), Fla.S.Ct. Case No. 82,530, filed October 8, 1993 . .	A 4-5

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT, STATE OF FLORIDA

TOMMY LEE WILLIAMS,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

NOT FINAL UNTIL TIME EXPIRES TO
FILE MOTION FOR REHEARING AND
DISPOSITION THEREOF IF FILED

CASE NO. 93-1580

Opinion filed November 22, 1993.

An appeal from the circuit court for Duval County.
L. P. Haddock, Judge.

Nancy A. Daniels, Public Defender, and Carl S. McGinnes,
Assistant Public Defender, Tallahassee, for Appellant.

Robert A. Butterworth, Attorney General, and Bradley R.
Bischoff, Assistant Attorney General, Tallahassee, for Appellee.

PER CURIAM.

AFFIRMED. See Rock v. State, 622 So. 2d 487 (Fla. 1st DCA
1993).

ZEHMER, C.J., MINER and WOLF, JJ., CONCUR.

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IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT OF FLORIDA

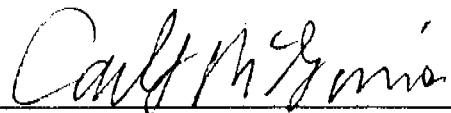
TOMMY LEE WILLIAMS, :
Appellant/Petitioner, :
v. : CASE NO. 93-1580
STATE OF FLORIDA, :
Appellee/Respondent. :
_____ :

NOTICE TO INVOKE DISCRETIONARY JURISDICTION

NOTICE IS GIVEN that TOMMIE LEE WILLAMS, Petitioner,
invokes the discretionary jurisdiction of the Supreme Court to
review the decision of this Court rendered November 22, 1993.
This decision expressly and directly conflicts with a decision
of another district court of appeal or of the Supreme Court on
the same question of law.

Respectfully submitted,

NANCY A. DANIELS
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SECOND JUDICIAL CIRCUIT



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ATTORNEY FOR PETITIONER

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by delivery to Bradley R. Bischoff, Assistant Attorney General, Criminal Appeals Division, The Capitol, Plaza Level, Tallahassee, Florida, 32301, on this 21st day of December, 1993.


CARL S. MEGINNES

IN THE DISTRICT COURT OF APPEAL
FIRST DISTRICT OF FLORIDA

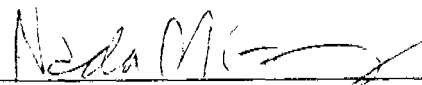
TERRY JEROME ROCK, :
Appellant/Petitioner, :
v. : CASE NO. 92-693
: SUPREME COURT NO.
STATE OF FLORIDA, :
Appellee/Respondent. :
_____:

NOTICE TO INVOKE DISCRETIONARY JURISDICTION

NOTICE IS GIVEN that TERRY JEROME ROCK,
Appellant/Petitioner invokes the discretionary jurisdiction of
the Supreme Court to review the decision of this Court filed
September 10, 1993. The decision expressly and directly
conflicts with a decision of another district court of appeal
or of the Supreme Court on the same question of law.

Respectfully submitted,

NANCY A. DANIELS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

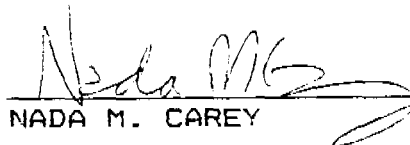


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been
furnished to Bradley R. Bischoff, Assistant Attorney General,
by delivery to The Capitol, Plaza Level, Tallahassee, Florida,
on this 8th day of October, 1993.



NADA M. CAREY