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FEB 21 1995

IN THE SUPREME COURT OF FLORIDA

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

JOHN A. SALATINO, :

Petitioner, :

v. :

CASE NO. 84,804

STATE OF FLORIDA, :

Respondent. :

PETITIONER'S REPLY BRIEF ON THE MERITS

NANCY A. DANIELS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

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ATTORNEY FOR PETITIONER

TABLE OF CONTENTS

	<u>PAGE(S)</u>
TABLE OF CONTENTS	i
PRELIMINARY STATEMENT	1
AMENDED STATEMENT OF THE CASE AND FACTS	2
ARGUMENT	3
CONCLUSION	4
CERTIFICATE OF SERVICE	4
APPENDIX	

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PRELIMINARY STATEMENT

Petitioner, John A. Salatino, incorporates all law, arguments and facts of his prior brief.

The Statement of the Case and Facts as presented in Petitioner's Merit brief are incorporated, and clarified herein.

The petitioner's brief is designated (PB page #). The state's brief is designated (SB page #).

"R page #" refers to the Record on Appeal.

"A page #" refers to the attached Appendix.

Other cites will be self-explanatory or otherwise explained herein.

**AMENDED
STATEMENT OF THE CASE AND FACTS**

1. Petitioner was placed on probation for harassing phone calls. No indication of threats, neither physical nor verbal, appear in the record, before nor after the no contact provision was imposed.

2. Petitioner was charged with following and harassing in violation of the court order (Information and arrest warrant (R-1-3))(A-1-3).

3. Petitioner plead to misdemeanor stalking, on the facts alleged in the information, reserving the right to appeal. (Transcript of plea and sentence, (R-6-8))(A-6-8).

ARGUMENT

The state in its answer has alleged that petitioner threatened (SB-4) and threatened to kill (SB-8) the victim. This is not supported by the record. Therefore, petitioner rightfully takes umbrage and requests this language be stricken from the respondent's brief.

In the attached appendix are the Information filed in this case (R-1)(A-1); the Probable Cause/Arrest Warrant (R-2-3) (A-2-3); the Plea Acknowledgement (R-35-36)(A-4-5).

Furthermore, the state alleges in its brief (SB-25) that this was not a "following" case. However, the charging documents and plea refer to "following", this it should have been addressed.

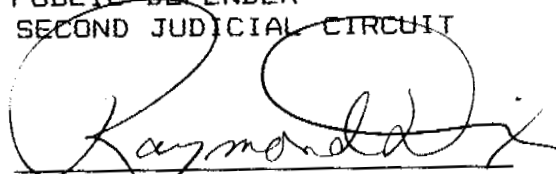
CONCLUSION

Petitioner requests respondent's brief be stricken as to the offending language.

Petitioner further requests that this Court consider the respondent's brief to have conceded "following" as an issue since it was not fully addressed and is in fact a vague term in the legal sense.

Respectfully submitted,

NANCY A. DANIELS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

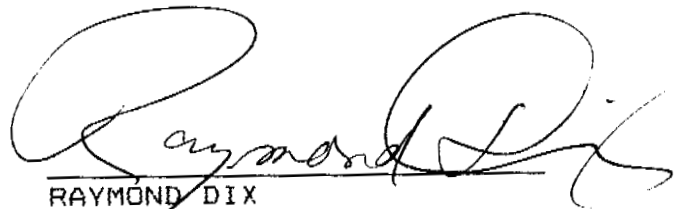


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by U.S. Mail to Mr. Michael J. Neimand, Assistant Attorney General, Dept of Legal Affairs, 401 N.W. 2nd Ave., Suite N921, Post Office Box 013241, Miami, Florida, 33101; and a copy has been mailed to petitioner, John A. Salatino, on this 21st day of February, 1995.



RAYMOND DIX

IN THE SUPREME COURT OF FLORIDA

JOHN A. SALATINO, :

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STATE OF FLORIDA, :

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A P P E N D I X

TO

PETITIONER'S REPLY BRIEF ON THE MERITS