FILED

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MAR 23 1995

CLERK, SUPREME COURT
By

Chief Deputy Clerk

STATE OF FLORIDA,

Petitioner,

vs.

RICHARD EVERSOLE,

Respondent.

S.CT. CASE NO. 85,324 DCA CASE NO. 94-551

ON DISCRETIONARY REVIEW FROM THE DISTRICT COURT OF APPEAL, FIFTH DISTRICT

IN THE SUPREME COURT OF FLORIDA

RESPONDENT'S JURISDICTIONAL BRIEF

JAMES B. GIBSON PUBLIC DEFENDER SEVENTH JUDICIAL CIRCUIT

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SUMMARY OF ARGUMENT

The Respondent acknowledges that pursuant to the rule of <u>Jollie v. State</u>, this court has jurisdiction to accept this case.

 $^{^{1}}$ Jollie v. State, 405 So. 2d 418 (Fla. 1981).

ARGUMENT

THE DISTRICT COURT'S DECISION IS "PAIRED FOR REVIEW" WITH ANOTHER DECISION CURRENTLY PENDING REVIEW IN THIS COURT.

This court has accepted jurisdiction of <u>Thompson v. State</u>, 638 So. 2d 116 (Fla. 5th DCA 1994), no. 83,951 (Fla. November 23, 1994). This case is factually indistinguishable from <u>Thompson</u>. The Respondent in this case acknowledges that pursuant to <u>Jollie v. State</u>, 405 So. 2d 418 (Fla. 1981), this case is "paired for review" with <u>Thompson</u>.

CONCLUSION

The respondent acknowledges that this court has jurisdiction to accept review of this case.

Respectfully submitted,

JAMES B. GIBSON PUBLIC DEFENDER

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CERTIFICATE OF SERVICE

A true and correct copy of the foregoing has been served on Robert A. Butterworth, Attorney General, of 444 Seabreeze Boulevard, Fifth Floor, Daytona Beach, Florida 32118, by way of his basket at the Fifth District Court of Appeal, this 21st day of March, 1995.

NANCY RYAN

ASSISTANT PUBLIC DEFENDER