

FILED

SID J. WHITE

MAY 12 1995

CLERK, SUPREME COURT  
By B. J. White  
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

RICKY J. GOODLOE,  
Petitioner,

v.

CASE NO. 85,535

STATE OF FLORIDA,  
Respondent.

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BRIEF OF RESPONDENT ON JURISDICTION

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SUMMARY OF ARGUMENT

Since the decision of the Fifth District Court of Appeal in the instant case relies on a case currently pending in this court for its precedent, this court has jurisdiction to accept the appeal.

ARGUMENT

THIS COURT HAS THE DISCRETION TO  
ACCEPT JURISDICTION IN THE INSTANT  
CASE.

In Jollie v. State, 405 So. 2d 418 (Fla. 1981), this court held that when a district court issues a decision where the controlling precedent is presently pending in this court, there is "prima facie express conflict (which) allows this court to exercise its jurisdiction." Id. at 420. The decision of the Fifth District Court of Appeal in the instant case relied on Armstrong v. State, 640 So. 2d 1250 (Fla. 5th DCA 1994) which is currently pending review before this court. This court therefore has discretion to entertain the review sought by petitioner.

CONCLUSION

Since this court has accepted jurisdiction in Armstrong, respondent respectfully prays this honorable court accept jurisdiction in this case pursuant to the holding in Jollie.

Respectfully submitted,

ROBERT A. BUTTERWORTH  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Jurisdictional Brief of Respondent has been served upon Kenneth Witts, Assistant Public Defender, 112-A Orange Avenue, Daytona Beach, Florida 32114, this 10th day of May, 1995.



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Ann M. Childs  
Of Counsel