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APR 17 1996

CLERK SUPREME COURT
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IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA, :
 :
 Petitioner, :
 :
 vs. :
 :
 STEVE GUTHRIE, :
 :
 Respondent. :

Case No. 87,331

DISCRETIONARY REVIEW OF DECISION OF THE
DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

BRIEF OF RESPONDENT ON JURISDICTION

JAMES MARION MOORMAN
PUBLIC DEFENDER
TENTH JUDICIAL CIRCUIT

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ATTORNEYS FOR RESPONDENT

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STATEMENT OF THE CASE AND FACTS

In the Circuit Court for Sarasota County, the state filed an information on November 17, 1994 charging Respondent, STEVEN GUTHRIE, with multiple counts of sexual activity with a child by a person in familial authority. [R11-16] Respondent filed a motion to suppress his statements to law enforcement. [R17-19] Respondent argued in the motion that he had, by signing a notification of rights form, invoked his constitutional rights to remain silent and to have counsel during questioning. [R17-19,21-23,24] Following a hearing, the trial court granted the motion. [R25,77] The state filed a timely notice of appeal. [R26] An order to stay the proceedings was issued. [R32]

On December 29, 1995, the Second District Court of Appeal affirmed the lower court ruling on Respondent's motion to suppress. The Second District certified conflict with Sapp v. State, 660 So. 2d 1146 (Fla. 1st DCA 1995). The state filed a timely notice to invoke discretionary jurisdiction on January 29, 1996.

SUMMARY OF THE ARGUMENT

Under Florida Rule of Appellate Procedure 9.120(d), briefs on jurisdiction are not required in this case.

ARGUMENT

ISSUE

SHOULD THIS COURT ACCEPT JURISDICTION OF THE PRESENT APPEAL?

In its decision in this case, the Second District Court of Appeal certified conflict with Sapp v. State, 660 So. 2d 1146 (Fla. 1st DCA 1995). Florida Rule of Appellate Procedure 9.120(d) states that no jurisdictional briefs shall be filed in cases where the district court certifies conflict to this court. Based on this rule, Respondent does not believe that briefs on jurisdiction are necessary in this case.

CONCLUSION

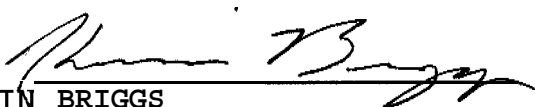
Briefs on jurisdiction are not necessary in this case.

CERTIFICATE OF SERVICE

I certify that a copy has been mailed to Peter J. Lombardo, Suite 700, 2002 N. Lois Ave., Tampa, FL 33607, (813) 873-4730, on this 15th day of April, 1996.

Respectfully submitted,

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