

**FILED**

SID J. WHITE

MAR 7 1996

CLERK, SUPREME COURT  
By CHF  
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

ROLAND DOBSON,

Petitioner,

v.

CASE NO. 87,356

STATE OF FLORIDA,

Respondent.

\_\_\_\_\_ /

BRIEF OF RESPONDENT ON JURISDICTION

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STATEMENT OF THE CASE AND FACTS

Petitioner's habitual offender sentence was affirmed based on the precedent of Youns v. State, 20 Fla. L. **Weekly** D2636 (Fla. 5th DCA December 1, 1995).

SUMMARY OF ARGUMENT

Since the decision of the Fifth District Court of Appeal relies on a case currently pending in this court for its precedent in the instant case, this court has jurisdiction to accept the **appeal**. Respondent requests the instant case **be** consolidated with *Youngs v. State*, Case Number 87,099.

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 Young v. State, 20 Fla. L. Weekly D2636 (Fla. 5th DCA December 1, 1995), which is currently pending review before this court. This court therefore has discretion to entertain the review sought by Petitioner.

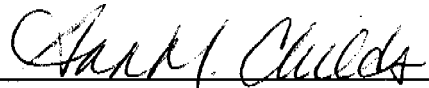
Respondent respectfully requests this court consolidate the instant case with Youna v. State, Case Number 87,099.

CONCLUSION

Based on the arguments and authorities presented herein, appellee respectfully requests this honorable court accept jurisdiction in this case pursuant to the holding in Jollie and consolidate the instant appeal with Young v. State, Case Number 87,099.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Brief of Respondent on Jurisdiction has been furnished by delivery via the basket of the Public Defender at the Fifth District Court of Appeal to Susan A. Fagan, Assistant Public Defender, this 4th day of March, 1996.



Ann M. Childs  
Of Counsel