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FILED

IN THE SUPREME COURT OF FLORIDA

BIO J. WHITE
MAY 10 1996

STATE OF FLORIDA,

Petitioner,

CLERK, SUPREME COURT

By _____
Deputy Clerk

vs.

CASE NO. 87,862

KENETH PIERCE,

Respondent.

RESPONDENT'S BRIEF ON JURISDICTION

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PRELIMINARY STATEMENT

Petitioner, the State of Florida, was the prosecution in the trial court and the appellee in the Fourth District Court of Appeal. Respondent, Kenneth Pierce, was the defendant in the trial court and Appellant in the appellate court. In this jurisdictional brief, the parties will be referred to as they appear before this Court.

STATEMENT OF THE CASE AND FACTS

Respondent accepts Petitioner's statement of the case and facts.

SUMMARY OF THE ARGUMENT

Respondent agrees that this Court has jurisdiction to review the instant decision of the Fourth District Court of Appeal.

ARGUMENT

THIS COURT HAS JURISDICTION TO REVIEW THIS CASE
AS THE IDENTICAL ISSUE IS PENDING BEFORE THIS
COURT IN ANOTHER CASE.

Respondent agrees that Jollie v. State, 405 So. 2d 418 (Fla. 1994) provides this Court with jurisdiction to review the instant decision of the Fourth District Court of Appeal.


Respondent does note, however, that R.App.P. 9.120(d) provides that the appendix to the jurisdictional brief shall contain a conformed copy of the decision of the district court of appeal for which review is sought. No other documents are authorized. The voluminous appendix attached to Petitioner's jurisdictional brief in the instant case, with the exception of the decision of the Fourth District Court of Appeal, should therefore properly be stricken as both superfluous and unauthorized.

CONCLUSION

Based on the foregoing argument and the authorities cited, Respondent concedes that this Court has jurisdiction to review the instant cause.

Respectfully submitted,

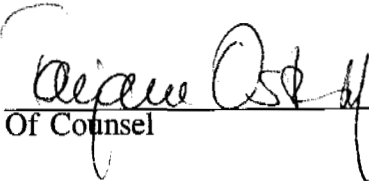
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to JAMES J. CARNEY, Assistant Attorney General, Office of the Attorney General, Third Floor, 1655 Palm Beach Lakes Boulevard, West Palm Beach, Florida 33401-2299, by courier this 8th day of MAY, 1996.



Of Counsel