

Supreme Court of Florida

STATE OF FLORIDA,
Petitioner,

vs.

EUGENE EVANS,
Respondent.

No. 88,451

[April 10, 1997]

PER CURIAM.

We granted review of Evans v. State, 21 Fla. L. Weekly D1444 (Fla. 1st DCA June 18, 1996), based on express and direct conflict with San Martin v. State, 591 So. 2d 301 (Fla. 2d DCA 1991). However, after closer examination of the two cases, we have determined that there is no express and direct conflict.¹ Jurisdiction was therefore improvidently granted and the petition for review is accordingly dismissed.

It is so ordered.

KOGAN, C.J., and OVERTON, SHAW,

GRIMES, HARDING, WELLS and
ANSTEAD, JJ., concur.

NO MOTION FOR REHEARING WILL BE
ALLOWED.

Application for Review of the Decision of the
District Court of Appeal - Direct Conflict of
Decisions

First District - Case No. 94-3845

(Columbia County)

Robert A. Butterworth, Attorney General;
James W. Rogers, Tallahassee Bureau Chief,
Criminal Appeals and Charmaine M. Millsaps,
Assistant Attorney General, Tallahassee,
Florida,

for Petitioner

Nancy A. Daniels, Public Defender and Jamie
Spivey, Assistant Public Defender, Second
Judicial Circuit, Tallahassee, Florida,

for Respondent

¹Both Evans and San Martin deal with departure sentences and clerical errors involving the misplacement of orders setting forth written reasons for departure sentences. Section 921.0016(1), Florida Statutes (1993), requires that a written statement delineating the reasons for the departure be filed within fifteen days after the date of sentencing. In Evans, the order was erroneously placed in a probation file and was not filed with the clerk within fifteen days as required by the statute. In San Martin, the order was properly filed with the clerk, but was misplaced thereafter. Thus, the statute was complied with in San Martin but not in Evans.