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**FILED**

SID J. WHITE

JAN 27 1997

IN THE SUPREME COURT OF FLORIDA

CASE NO. 89,510  
4TH DCA NO. 95-0749

CLERK, SUPREME COURT  
By \_\_\_\_\_  
Chief Deputy Clerk

**STATE OF FLORIDA,**

Petitioner,

v.

**FRANCISCO RODRIGUEZ,**

Respondent.

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**ON PETITION FOR WRIT OF CERTIORARI REVIEW**

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**RESPONDENT'S ANSWER BRIEF ON THE MERITS**

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ISSUE I: DOES THE JURY INSTRUCTION GIVEN IN THIS CASE IMPERMISSIBLY REDUCE THE REASONABLE DOUBT STANDARD BELOW THE PROTECTIONS OF THE DUE PROCESS CLAUSE?	
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**TABLE OF AUTHORITIES**

**CASES**

Wilson v. State, 22 Fla. L. Weekly S2 (Fla. Dec. 26, 1996) . . . . . 4,5,6

**PRELIMINARY STATEMENT**

Francisco Rodriguez was the defendant below and will referred to as "Respondent." The State will be referred to as "Petitioner." References to the record will be preceded by "R."

STATEMENT OF THE CASE AND FACTS

**Respondent accepts the Petitioner's statement of the case and facts as set forth in its**

**Initial Brief.**

JURISDICTIONAL STATEMENT

This Court has jurisdiction pursuant to Article V, sec. 3(b)(4), Florida  
Constitution.

SUMMARY OF ARGUMENT

In light of this Court's decision in Wilson v. State, 22 Fla. L. Weekly S2 (Fla. Dec. 26, 1996), the issue in this case is moot.

ARGUMENT

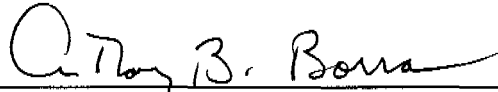
Given this Court's recent pronouncement in Wilson v. State, 22 Fla. L. Weekly S2 (Fla. Dec. 26, 1996), the issue in the case sub judice is moot. Thus, Appellee concedes that the Fourth District Court's decision addressing the issue before this Court must be reversed.



CONCLUSION

Appellee concedes that the issue before this Court is now resolved given the recent decision in Wilson v. State, 22 Fla. L. Weekly S2 (Fla. Dec. 26, 1997). Thus, this Court should reverse and remand with instructions to the Fourth District Court of Appeal.

Respectfully submitted,



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CERTIFICATE OF SERVICE

**I CERTIFY** that a true copy has been furnished by U.S. Mail to Counsel for Petitioner,  
Attorney General's Office - Robert A. Butterworth, Sharon A. Wood, Assistant Attorney General,  
1655 Palm Beach Lakes Blvd., West Palm Beach, FL 33401, on this 23<sup>rd</sup> day of January, 1997.