

IN THE SUPREME COURT OF THE STATE OF FLORIDA

CASE NO. 93,114

MICHAEL KEIRN,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

095
FILED
SID J. WHITE
JUN 11 1998
CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

RESPONDENT'S BRIEF ON JURISDICTION

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PRELIMINARY STATEMENT

Petitioner was the defendant and Respondent was the prosecution in the Criminal Division of the Circuit Court of the Seventeenth Judicial Circuit, in and for Broward County, Florida. Petitioner was the appellant, and Respondent was the appellee in the Fourth District Court of Appeal. In this brief, the parties will be referred to as the Petitioner or the Defendant and the State.

STATEMENT OF THE CASE AND FACTS

Respondent accepts petitioner's statement of the facts for the purposes of determining jurisdiction.

SUMMARY OF THE ARGUMENT

I. This Court has already accepted jurisdiction of this issue in Raulerson v. State, and Glouster v. State, and therefore the state defers to this court's discretion as to whether to accept jurisdiction of the instant case.

ARGUMENT

THIS COURT HAS ALREADY ACCEPTED JURISDICTION OF THIS ISSUE IN RAULERSON V. STATE, AND GLOUSTER V. STATE, AND THE STATE THEREFORE DEFERS TO THIS COURT'S DISCRETION AS TO WHETHER TO ACCEPT JURISDICTION OF THE INSTANT CASE.

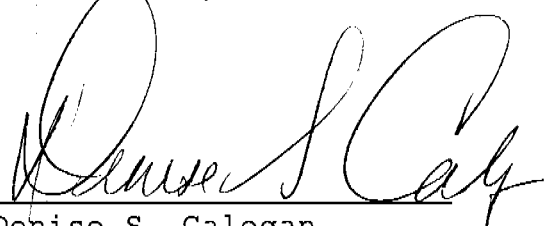
Respondent acknowledges that the Fourth District Court of Appeal in State v. Keirn, 23 Fla. L. Weekly D1144 (Fla. 4th DCA May 6, 1998), declared section 322.34(1) Florida Statutes (1995) constitutional. The state further acknowledges that this court has discretionary jurisdiction pursuant to Florida Rule of Appellate Procedure 9.03000(a)(2)(A)(i). Because this court has already accepted jurisdiction of an identical issue in Raulerson v. State, Case No. 91,611, and Glouster v. State, Case No. 92,235, the state defers to this court's discretion as to whether it should also accept jurisdiction of the instant case.

CONCLUSION

The State respectfully defers to this court's discretion as to whether it should accept jurisdiction of the instant case.

Respectfully submitted,

ROBERT A. BUTTERWORTH
Attorney General
Tallahassee, Florida

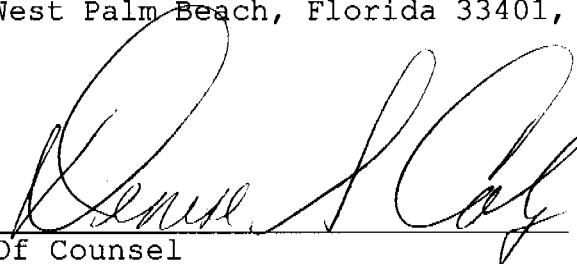


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Respondent's Brief on Jurisdiction has been furnished by courier to Karen Ehrlich, Assistant Public Defender, Criminal Justice Building/6th Floor, 421 3rd Street, West Palm Beach, Florida 33401, on this 9th day of June 1998.



Of Counsel