

FILED

SID J. WHITE

MAY 8 1998

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

DAVID RICHARD CONNER,

Petitioner,

v.

Case No. 92,835

STATE OF FLORIDA,

Respondent.

ON PETITION FOR REVIEW FROM
THE SECOND DISTRICT COURT OF APPEAL
STATE OF FLORIDA

JURISDICTIONAL BRIEF OF RESPONDENT

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

) **ROBERT J. KRAUSS**
Senior Assistant Attorney General
Chief of Criminal Law, Tampa
Florida Bar No. 238538

) **SUSAN D. DUNLEVY**
Assistant Attorney General
Florida Bar No. 229032
2002 North Lois Avenue, Suite 700
Tampa, Florida 33607-2366
(813)873-4739

COUNSEL FOR RESPONDENT

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ARGUMENT 1

 WHETHER THE DECISION OF THE DISTRICT COURT OF APPEAL IN
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 TIONAL SUCH THAT THIS COURT HAS DISCRETIONARY JURISDIC-
 TION TO REVIEW THE INSTANT CASE PURSUANT TO RULE
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STATEMENT OF THE CASE AND FACTS

The opinion of the Second District Court of Appeal, a copy of which is appended to Petitioner's Brief on Jurisdiction, outlines the relevant facts at this stage of the proceedings.

SUMMARY OF THE ARGUMENT

Respondent acknowledges that this Court has discretionary jurisdiction to review the instant case under Rule 9.030-(a)(2)(A)(i), Florida Rules of Appellate Procedure, but submits that this Court should deny review.

ARGUMENT

WHETHER THE DECISION OF THE DISTRICT COURT OF APPEAL IN THIS CASE EXPRESSLY DECLARED A STATE STATUTE CONSTITUTIONAL SUCH THAT THIS COURT HAS DISCRETIONARY JURISDICTION TO REVIEW THE INSTANT CASE PURSUANT TO RULE 9.030(a)(2)-(A)(i), FLORIDA RULES OF APPELLATE PROCEDURE.

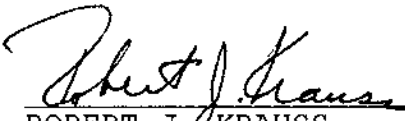
Respondent acknowledges that this Court has discretionary jurisdiction to review the instant case under Rule 9.030-(a)(2)(A)(i), Florida Rules of Appellate Procedure. However, Respondent submits that this Court should deny review in this case. The Second District's decision that Section 90.803(24), Florida Statutes (1995), is facially constitutional in that it does not violate a defendant's rights to confrontation of witnesses or to due process is correct.

CONCLUSION


Based on the foregoing facts, argument, and citations of authority, Respondent respectfully requests that this Court deny review in the instant case.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL



ROBERT J. KRAUSS
Senior Assistant Attorney General
Chief of Criminal Law, Tampa
Florida Bar No. 238538



SUSAN D. DUNLEVY
Assistant Attorney General
Florida Bar No. 0229032
2002 N. Lois Ave. Suite 700
Tampa, Florida 33607-2366
(813) 873-4739

COUNSEL FOR RESPONDENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Richard P. Albertine, Jr., Assistant Public Defender, Office of the Public Defender—Appeals, Pinellas County Courthouse, 14255 49th Street North, Building #1, Clearwater, Florida 33762, this 6th day of May, 1998.



COUNSEL FOR RESPONDENT