

ORIGINAL

IN THE SUPREME COURT OF FLORIDA

FILED

SID J. WHITE

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GEORGE W. PARKS, JR.,)
)
Petitioner,)
)
vs.)
)
STATE OF FLORIDA,)
)
Respondent.)
_____)

CLERK SUPREME COURT
By [Signature]
Chief Deputy Clerk

CASE NO. 94,286

PETITIONER'S BRIEF ON JURISDICTION

JAMES B. GIBSON
PUBLIC DEFENDER
SEVENTH JUDICIAL CIRCUIT

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IN THE DISTRICT COURT OF APPEAL, FIFTH DISTRICT
OF THE STATE OF FLORIDA

GEORGE W. PARKS, JR.,)
)
 Petitioner,)
)
vs.)
)
STATE OF FLORIDA,)
)
 Respondent.)
_____)

CASE NO.

STATEMENT OF THE CASE AND FACTS

Petitioner pled nolo contendere to various felony charges in three different lower court cases. (R 5-6, 14-15, 25-29, 53-36, 52, 108, 113) Petitioner was found guilty of subsequently violating his probation in all three cases by committing a new substantive offense and was sentenced by the trial court. (R 200-208, 241-243, 248-249, 263, 271, 282-283, 347-348, 350)

Petitioner appealed the sentences imposed by the trial court to the Fifth District Court of Appeal. (R 297) On appeal to the Fifth District Court of Appeal, Petitioner argued that the trial court erred by imposing a general sentence, by not granting credit for time served and by sentencing Petitioner to periods of probation which exceed the statutory maximum. On September 4, 1998, the Fifth

District issued its opinion affirming Petitioner's sentence. See Parks v. State, 23 Fla. L. Weekly D 2065 (Fla. 5th DCA September 4, 1998). (Appendix) In rejecting Petitioner's argument, the District Court held that although Petitioner raised admittedly serious errors, these errors were not preserved and cited Maddox v. State, 708 So. 2d 617 (Fla. 5th DCA 1998) which is currently pending for review with this Court in case number 92,805 (filed April 23, 1998).

The State filed a motion for clarification on September 10, 1998. The Fifth District Court of Appeal denied the motion on November 3, 1998. An amended notice to invoke this Court's discretionary jurisdiction was timely filed on November 4, 1998.

SUMMARY OF THE ARGUMENT

This Honorable Court has discretionary jurisdiction pursuant to Jollie v. State, 405 So. 2d 418 (Fla. 1981) to review the instant case where the Fifth District Court of Appeal cited in its opinion to a case which is currently pending review with this Court.

ARGUMENT

THIS COURT HAS JURISDICTION TO REVIEW
THE INSTANT CASE PURSUANT TO JOLLIE V. STATE,
405 So. 2d 418 (Fla. 1981).

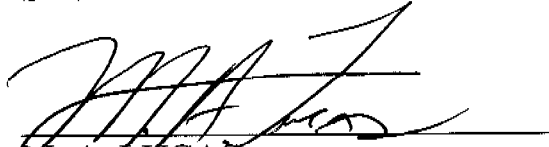
On appeal to the Fifth District Court of Appeal, Petitioner argued that the trial court erred by imposing a general sentence, by not granting credit for time served and by sentencing Petitioner to periods of probation which exceed the statutory maximum. On September 4, 1998, the Fifth District issued its opinion affirming Petitioner's sentence. See Parks v. State, 23 Fla. L. Weekly D 2065 (Fla. 5th DCA September 4, 1998). (Appendix) In rejecting Petitioner's argument, the District Court held that although Petitioner raised admittedly serious errors, these errors were not preserved and cited Maddox v. State, 708 So. 2d 617 (Fla. 5th DCA 1998) which is currently pending for review with this Court in case number 92,805 (filed April 23, 1998). This Honorable Court has discretionary jurisdiction to accept the instant case pursuant to Jollie v. State, 405 So. 2d 418 (Fla. 1981).

CONCLUSION

Petitioner respectfully requests this Honorable Court to exercise its discretionary jurisdiction and accept the instant case for review.

Respectfully submitted,

JAMES B. GIBSON
PUBLIC DEFENDER
SEVENTH JUDICIAL CIRCUIT

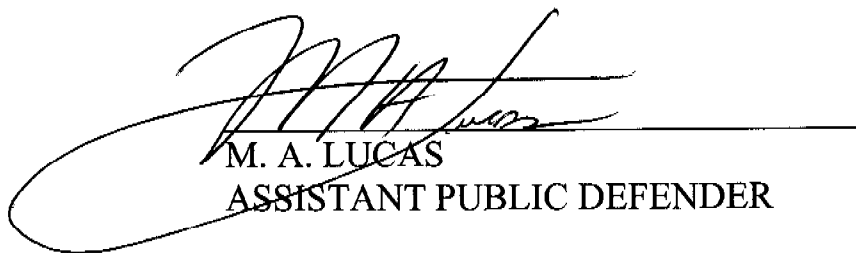
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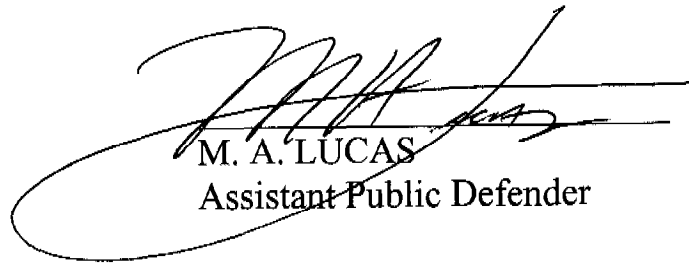
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been hand delivered to: The Honorable Robert A. Butterworth, Attorney General, 444 Seabreeze Blvd., Fifth Floor, Daytona Beach, FL 32118 via his basket at the Fifth District Court of Appeal and mailed to: George W. Parks, Jr., Inmate #899284/F 1131S, Walton Correctional Institution, 691 World War II Veterans Lane, DeFuniak Springs, FL 32433, this 12th day of November, 1998.


M. A. LUCAS
ASSISTANT PUBLIC DEFENDER

CERTIFICATE OF FONT

I HEREBY CERTIFY that the size and style of type used in the brief is 14 point proportionally spaced Times New Roman.



M. A. LUCAS
Assistant Public Defender