

IN THE SUPREME COURT OF FLORIDA

FILED
DEBBIE CAUSSEAU

MAY 27 1999

CASE NO. 95,507

CLERK, SUPREME COURT

By _____

SUSAN DIAL and VIRGINIA SIDELINGER,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

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

RESPONDENT'S BRIEF ON JURISDICTION

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PRELIMINARY STATEMENT

Petitioners were the defendants in the trial court below, and will be referred to herein as "Petitioners" or "Defendant". Respondent, the State of Florida, was the prosecution in the trial court below and will be referred to herein as "Respondent" or "the State." Reference to the record on appeal will be by the symbol "R," reference to the transcripts will be by the symbol "T," reference to any supplemental record or transcripts will be by the symbols "SR[vol.]" or "ST[vol.]," and reference to Appellant's brief will be by the symbol "IB," followed by the appropriate page numbers.

CERTIFICATE OF TYPE SIZE AND STYLE

In accordance with the Florida Supreme Court Administrative Order, issued on July 13, 1998, and modeled after Rule 28-2(d), Rules of the United States Court of Appeals for the Eleventh Circuit, counsel for the State of Florida, Respondent herein, hereby certifies that the instant brief has been prepared with 12 point Courier New type, a font that is not proportionately spaced.

STATEMENT OF THE CASE AND FACTS

Respondent accepts the statement of the case and facts as set forth in Petitioners' brief.

SUMMARY OF THE ARGUMENT

This Court should accept jurisdiction to review this case because the decision of the District Court of Appeal of Florida, Fourth District, expressly and directly conflicts with a decision of another district court or of this Court.

ARGUMENT

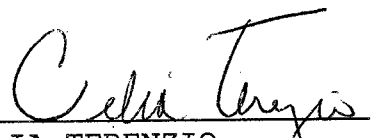
THE DECISION OF THE FOURTH DISTRICT IN THE INSTANT CASE IS IN EXPRESS AND DIRECT CONFLICT WITH A DECISION OF ANOTHER COURT. (Restated).

Petitioners contend that the Fourth District Court of Appeal's decision in this case, expressly and directly conflicts with the First District's decision in State v. Holland, 689 So.2d 715 So. 2d 274 (Fla. 1st 1998). The State agrees and notes this Court has recently accepted jurisdiction in Harriet Bates v. State, case no. 94,741, involving the same issue.

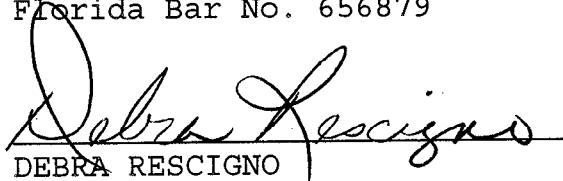
CONCLUSION

Wherefore, based on the foregoing arguments and the authorities cited therein, Appellee respectfully agrees this Court should accept jurisdiction.

Respectfully submitted,
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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: CHERRY GRANT, ESQ., Assistant Public Defender, 421 3rd St., West Palm Beach, Fl. 33401-4203 on this 24th, of May, 1999.

