

IN THE SUPREME COURT OF FLORIDA

**FILED**  
DEBBIE CAUSSEAU

JUL 19 1999

CLERK, SUPREME COURT  
By \_\_\_\_\_

SHAWN WASHINGTON, :  
 :  
 Petitioner, :  
 :  
 v. :  
 :  
 STATE OF FLORIDA, :  
 :  
 Respondent. :

CASE NO.

96,028

**ORIGINAL**

ON DISCRETIONARY REVIEW  
FROM THE FIRST DISTRICT COURT OF APPEAL

JURISDICTIONAL BRIEF OF PETITIONER

NANCY A. DANIELS  
PUBLIC DEFENDER  
SECOND JUDICIAL CIRCUIT

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IN THE SUPREME COURT OF FLORIDA

SHAWN WASHINGTON, :  
Petitioner, :  
VS. : CASE NO.  
STATE OF FLORIDA, :  
Respondent. :  
\_\_\_\_\_ :

**JURISDICTIONAL BRIEF OF PETITIONER**

I STATEMENT OF THE CASE AND FACTS

This is an appeal from the decision of the First District Court of Appeal. Washington v. State, no. 1998-225 (Fla. 1st DCA June 9, 1999). In a per curiam affirmance, the court cited Scott v. State, 722 So.2d 256 (Fla. 5th DCA 1998) (*on rehearing en banc*), on which this court has granted review, 729 So.2d 394 (Fla. April 4, 1999).

II SUMMARY OF THE ARGUMENT

Under Jollie v. State, *infra*, the citation by the district court to a case pending a decision in this court creates conflict jurisdiction under article V, § 3(b)(3), Florida Constitution and Rule 9.030(a)(2)(A)(iv), Florida Rules of Appellate Procedure. Because this court has accepted Scott for review, it should also accept this case for review, in order to promote uniformity of decisions and to serve the interests of justice.

### III ARGUMENT

#### ISSUE PRESENTED

THE COURT SHOULD ACCEPT THIS CASE TO PROMOTE UNIFORMITY OF DECISIONS.

In Scott v. State, 722 So.2d 256 (Fla. 5th DCA 1998) (on rehearing en banc), review granted, 729 So.2d 394 (Fla. April 4, 1999), the Fifth District Court certified the following as questions of great public importance:

DOES THE ILLEGAL POSSESSION OF A CONTROLLED SUBSTANCE RAISE A REBUTTABLE PRESUMPTION (OR INFERENCE) THAT THE DEFENDANT HAD KNOWLEDGE OF ITS ILLICIT NATURE? IF SO, IF THE DEFENDANT FAILS TO RAISE THE ISSUE THAT HE WAS UNAWARE OF THE ILLICIT NATURE OF THE SUBSTANCE, IS HE NEVERTHELESS ENTITLED TO A CHICONE INSTRUCTION? CAN THE FAILURE TO GIVE THE REQUESTED INSTRUCTION BE HARMLESS ERROR?

722 So.2d at 258. This court has accepted jurisdiction in Scott, as noted above.

In the instant case, the First District court affirmed per curiam with a cite (inter alia) to Scott. This PCA cite created a type of discretionary conflict jurisdiction recognized by this court in Jollie v. State, 405 So.2d 418 (Fla. 1981).

Because the instant case involves the same issue as Scott, and this court has already accepted Scott for review, petitioner requests that this court also review this case to promote uniformity of decisions.

IV CONCLUSION

Based upon the foregoing argument, reasoning, and citation of authority, petitioner requests that this Court exercise its discretion to accept jurisdiction of this case and order briefing on the merits.

Respectfully submitted,

NANCY A. DANIELS  
PUBLIC DEFENDER  
SECOND JUDICIAL CIRCUIT



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to Trina Kramer, Assistant Attorney General, by delivery to The Capitol, Plaza Level, Tallahassee, Florida, this 19 day of July, 1999.



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KATHLEEN STOVER

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SHAWN WASHINGTON,

Petitioner,

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CASE NO.

**96,028**

STATE OF FLORIDA,

Respondent.

\_\_\_\_\_ /

CERTIFICATE OF FONT

This is to hereby certify that the previously filed Jurisdictional Brief of Petitioner was typed in Courier New, 12 point.

Respectfully submitted,

NANCY A. DANIELS  
PUBLIC DEFENDER  
SECOND JUDICIAL CIRCUIT

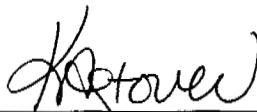
                      
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished by delivery to the Office of the Attorney General, The Capitol, Plaza Level, Tallahassee, Florida, on this 20 day of July, 1999.



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KATHLEEN STOVER