

IN THE SUPREME COURT OF THE STATE OF FLORIDA

STATE OF FLORIDA,

Petitioner,

v.

Case No. 96,489

STACY CASTILLEGA,

Respondent.

FILED

DEBBIE CAUSSEAU

SEP 27 1999

CLERK, SUPREME COURT

By _____

ON DISCRETIONARY REVIEW FROM THE
DISTRICT COURT OF APPEAL, FIFTH DISTRICT
AND THE FIFTH JUDICIAL CIRCUIT IN AND FOR
MARION COUNTY, FLORIDA

PETITIONER'S BRIEF ON JURISDICTION

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STATEMENT OF THE CASE AND FACTS

This case was before the Fifth District Court of Appeal on Petition for Writ of Certiorari. No response was requested or filed on Respondents' behalf. On August 20, 1999, the fifth district issued its decision in this case, stating in full: "This petition is treated as a petition for writ of certiorari and the petition is granted. See Norris v. State, 24 Fla.L.Weekly D (Fla. 5th DCA Aug. 6, 1999). Pursuant to Norris, the order is quashed."

State v. Norris is currently pending before this Honorable Court as case number 96,401. The undersigned filed a motion to consolidate this case with Norris, which as of this writing is pending. Since the sole basis for the decision below is the Norris case, should this Court accept jurisdiction in that case, this case should also be reviewed by this Court and consolidated with Norris.

SUMMARY OF ARGUMENT

If this Court accepts jurisdiction in case number 96,401, pursuant to Jollie v. State, *infra*, this case should be accepted as well and consolidated with State v. Norris.

CERTIFICATE OF FONT

This brief is submitted in Courier font, 12 point type.

ARGUMENT

THIS HONORABLE COURT SHOULD ACCEPT
JURISDICTION IN THIS CASE IF IT
ACCEPTS JURISDICTION IN CASE NUMBER
96,401.

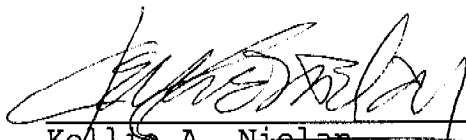
In Jollie v. State, 405 So. 2d 418 (Fla. 1981), this Honorable Court held that decisions which cited as the only authority a case currently pending review before this Court are within this Court's discretionary jurisdiction. In this case, the decision of the district court relies solely upon Norris v. State, 24 Fla.L.Weekly D1866 (Fla. 5th DCA Aug. 6, 1999), which is currently pending review in this Court as State v. Norris, Case No. 96,401. In the event that this Honorable Court accepts review of Norris, this case should be accepted for review and consolidated with it.


CONCLUSION

Based upon the foregoing argument and authority, the State respectfully requests this Honorable Court to accept jurisdiction in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing brief has been furnished by United States Mail to the Hon. William T. Swigert, Sr., at 110 N.W. 1st Avenue, Ocala, FL 34475, to Hon. Peyton Hyslop, at 20 N. Main Street, Room 340, Brooksville, FL 34601, and to Assistant Public Defender Elizabeth Osmond, at 20 N. Main Street, Brooksville, FL 34601,, this 24th day of September, 1999.


Belle B. Schumann
Assistant Attorney General

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STATE OF FLORIDA,

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Case No. 96,489

STACY CASTILLEGA,

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_____ /

ON DISCRETIONARY REVIEW FROM THE
DISTRICT COURT OF APPEAL, FIFTH DISTRICT
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MARION COUNTY, FLORIDA

APPENDIX TO PETITIONER'S BRIEF ON JURISDICTION

Castillega v. State,

Case No. 99-1517 (Fla. 5th DCA Aug. 20, 1999).....A

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

JULY TERM 1999

STACY CASTILLEGA,
Petitioner,

NOT FINAL UNTIL THE TIME EXPIRES
TO FILE REHEARING MOTION, AND,
IF FILED, DISPOSED OF.

v.

Case No. 99-1517

STATE OF FLORIDA, et al.
Respondents.

Opinion Filed August 20, 1999

Petition for Writ of Prohibition,
William T. Swigert, Sr. and Peyton B. Hyslop,
Respondent Judges.

Howard H. Babb, Jr., Public Defender, and
Elizabeth Osmond, Assistant Public Defender,
Brooksville, for Petitioner.

No Appearance for Respondents.

PER CURIAM.

This petition is treated as a petition for writ of certiorari and the petition is granted.
Pursuant to Norris v. State, 24 Fla. L. Weekly D ____ (Fla. 5th DCA Aug. 6, 1999), the order
is quashed.

WRIT OF CERTIORARI GRANTED; ORDER QUASHED.

DAUKSCH and GRIFFIN JJ., concur.
GOSHORN, J., dissents, with opinion.

ATTORNEY GENERAL'S OFFICE
TALLAHASSEE, FLORIDA

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GOSHORN, J., dissenting.

Case No. 99-1517

I respectfully dissent for the reasons set forth in my dissent in Norris v. State, 24 Fla.
L. Weekly D ____ (Fla. 5th DCA Aug. 6, 1999).