

**IN THE SUPREME COURT OF THE STATE OF FLORIDA**

**RICHARD NAGEL,**

**Petitioner**

**v.**

**STATE OF FLORIDA**

**Respondent.**

**Case No. 96,900**

**FILED**  
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**ON APPEAL FROM THE FOURTH  
DISTRICT COURT OF APPEAL**

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**RESPONDENT'S BRIEF ON JURISDICTION**

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## **CERTIFICATE OF TYPE FONT AND SIZE**

Pursuant to this Court's administrative order of July 13, 1998, Counsel for Respondent hereby certifies the font used in this brief is Times New Roman, 14 point proportionally spaced type.

## **PRELIMINARY STATEMENT**

Respondent, the State of Florida, was the prosecuting authority and appellee in the appended Nagel v. State, Fla. 4th DCA Case No 98-4144 (August 11, 1999). Petitioner, Richard Nagel, was the criminal defendant and appellant below.

In this brief, the parties will be referred to as they appear before this Court, except that the Appellee may also be referred to as "State" or "Prosecution."

The following symbols will be used:

R = Record on Appeal

T = Transcript of trial and sentencing proceedings

## **STATEMENT OF THE CASE AND FACTS**

Respondent accepts Petitioner's "Statement of the Case and Facts" (AB 2) as accurate and objective.

## **SUMMARY ARGUMENT**

Respondent agrees that in view of this Court's holding in Jollie v. State, 405 So. 2d 418 (Fla. 1981), the Court should accept jurisdiction of this case.

## ARGUMENT

The Florida Fourth District Court of Appeal affirmed Petitioner's conviction in reliance in part on Goodwin v. State, 721 So. 2d 728, 729 (Fla. 4th DCA 1998), rev. granted, 729 So.2d 391 (Fla. 1999). In view of the fact that this court has granted review of Goodwin and that oral arguments have been presented, Respondent agrees that, pursuant to the Court's holding in Jollie v. State, 405 So. 2d 418 (Fla. 1981), the Court should accept jurisdiction of the case at bar and resolve it concomitantly with Goodwin.



**CONCLUSION**

WHEREFORE Respondent does not object to the Court accepting jurisdiction in this case, and suggests that this honorable Court should take such action as it deems appropriate in the premises.

Respectfully submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a copy of the foregoing "Respondent's Brief on Jurisdiction" has been sent by United States mail to CHARLES W. MUSGROVE, Esq., Attorney at Law, Congress Park, Suite 1-D, 2328 South Congress Avenue, West Palm Beach, FL 33406 on November 19, 1999.

  
**JOSEPH A. TRINGALI**  
Counsel for Respondent