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IN THE SUPREME COURT OF FLORIDA

CASE NO. 99-39

FILED  
DEBBIE CAUSSEAU  
JAN 10 2000  
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BY \_\_\_\_\_

RICARDO PEREZ,

Petitioner,

-vs-

THE STATE OF FLORIDA,

Respondent.

---

ON PETITION FOR DISCRETIONARY REVIEW FROM  
THE DISTRICT COURT OF APPEAL OF FLORIDA,  
THIRD DISTRICT

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BRIEF OF RESPONDENT ON JURISDICTION

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**PRELIMINARY STATEMENT**

Respondent, THE STATE OF FLORIDA, was the prosecution in the trial court and Appellant in the District Court of Appeal of Florida, Third District (hereinafter "Third District). Petitioner, RICARDO PEREZ, was the defendant in the trial court and the Appellee in the District Court of Appeal. The parties shall be referred to as they stand in this Court. The symbol "App." will refer to the appendix attached to the Respondent's brief on jurisdiction.

**CERTIFICATE OF FONT AND TYPE SIZE**

Counsel certifies that this brief was typed using Courier New 12.

**STATEMENT OF THE CASE AND FACTS**

The State accepts Petitioner's rendition of the statement of the case and facts as an accurate representation of the proceedings below.

**QUESTION PRESENTED**

WHETHER THIS COURT CAN EXERCISE ITS  
DISCRETIONARY JURISDICTION TO REVIEW THIS  
CASE?

**SUMMARY OF THE ARGUMENT**

In arguing that this Court should accept discretionary jurisdiction, the Petitioner argues that because the Third District's decision in the case sub iudice was based on Peart v. State, 705 So. 2d 1059 (Fla. 3d DCA 1998), review granted, 722 So. 2d 193 (1998), this Court should also grant review of Petitioner's case. Respondent submits that this Court should decline to accept jurisdiction in this matter because no jurisdictional basis has been asserted which would support discretionary jurisdiction.

**ARGUMENT**

**THIS COURT HAS NO DISCRETION TO REVIEW THIS CASE.**


The Petitioner contends that this Court has jurisdiction to review this matter because the Third District's decision in the case sub judice was based on Peart v. State, 705 So. 2d 1059 (Fla. 3d DCA 1998), review granted, 722 So. 2d 193 (1998), a case in which this Court granted review. Thus, Petitioner argues, this Court should review the Defendant's case. Pursuant to Art V, §3(b), Fla. Const. **and** Fla. R. App. P. 9.030 (a) (2), the Respondent has been unable to determine the existence of any jurisdictional basis for review and none has been asserted by Petitioner. Consequently, this Court has no discretion to review this case.

**CONCLUSION**

WHEREFORE, based on the preceding authorities and arguments, Respondent respectfully requests that the Court decline to exercise its discretionary jurisdiction.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing Brief of Respondent was mailed this 21 day of January 2000, to Mr. Ricardo Perez, DC# 384899, Washington Correctional Institution, 4455 Sam Mitchell Drive, Chipley, Florida 32428.

  
CHRISTINE E. ZAHRALBAN  
Assistant Attorney General



IN THE SUPREME COURT OF FLORIDA

RICARDO PEREZ,

Petitioner,

v.

STATE OF FLORIDA,

Respondent.

CASE NO. 99-39


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Ex. A

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing APPENDIX TO RESPONDENT'S BRIEF was furnished by mail to RICARDO PEREZ, DC# 384899, Washington Correctional Institution, 4455 Sam Mitchell Drive, Chipley, Fl 32428, on this 7<sup>th</sup> day of January 2000.

  
CHRISTINE E. ZAHRALBAN  
Assistant Attorney General

IN THE DISTRICT COURT OF APPEAL  
OF FLORIDA  
THIRD DISTRICT  
JULY TERM, A.D. 1999  
NOVEMBER 9, 1999

RICARDO PEREZ,

CASE NO.: 99-2196

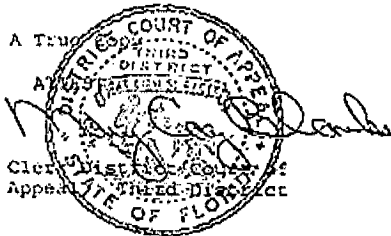
Appellant(s)/Petitioner(s),

vs.

MICHAEL W. MOORE, SEC. OF  
FL. DEPT. OF CORR., ETC.,  
Appellee(s)/Respondent(s).

LOWER  
TRIBUNAL NO. 93-36225

Following review of the petition for writ of error coram nobis/habeas corpus and the response and reply thereto, it is ordered that said petition is hereby denied. See Peart v. State, 705 So. 2d 1059 (Fla. 3d DCA 1998), review granted, 722 So. 2d 193 (1998). NESBITT, COPE and SORONDO, JJ., concur.



cc:  
Ricardo Perez  
Christine E. Zahralban  
Hon. Sidney B. Shapiro

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