

IN THE SUPREME COURT OF FLORIDA

JOURDAN DANIEL PARKS,

Petitioner,

v.

Case No. SC23-1355

STATE OF FLORIDA,

Respondent.

_____ /

ON DISCRETIONARY REVIEW FROM THE
DISTRICT COURT OF APPEAL, FIRST DISTRICT

JURISDICTIONAL BRIEF OF RESPONDENT

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PRELIMINARY STATEMENT

The petitioner, JOURDAN DANIEL PARKS, the appellant in the First District Court of Appeal and the defendant in the trial court, is referred to as the petitioner or by his proper name. The respondent, the State of Florida, the prosecuting authority, is referred to as the respondent or the State.

The jurisdictional brief prepared by the petitioner is referred to by the symbol "PJB." That symbol is followed by the page number.

STATEMENT OF THE ISSUES

If review is granted, the State intends to raise no affirmative issues on cross-review that are independent of those on which jurisdiction is invoked and independent of those raised by Petitioner in his statement of the issues.

STATEMENT OF THE CASE AND FACTS

The relevant history and facts are stated in the lower court's opinion, attached in the appendix (hereafter "A."). The opinion was published in the Southern Reporter, 3d Series, at 371 So. 3d 392 (Fla. 1st DCA 2023).

ARGUMENT

ISSUE: WHETHER THE INSTANT DECISION EXPRESSLY AND DIRECTLY CONFLICTS WITH THE DECISION IN D.L.J. V. STATE, 331 SO. 3D 227 (FLA. 2D DCA 2021)? (RESTATED)

The jurisdiction of the Supreme Court of Florida is governed by Article V of the state’s Constitution and “extends only to the narrow class of cases enumerated” in that provision. Wells v. State, 132 So. 3d 1110, 1112 (Fla. 2014)(citation omitted). The Court’s jurisdiction is limited to this “narrow class of cases” because:

[the] Supreme Court ... functions as a supervisory body in the judicial system for the State, exercising appellate power in certain specified areas essential to the settlement of issues of public importance and the preservation of uniformity of principle and practice, with review by the district courts in most instances being final and absolute.

Jenkins v. State, 385 So. 2d 1356, 1357-58 (Fla. 1980). It follows that jurisdiction is “a threshold matter that must be addressed” before the merits are reached. In re Holder, 945 So. 2d 1130, 1134 (Fla. 2006) (citations omitted).

The petitioner is seeking to invoke the Court’s jurisdiction pursuant to Article V, section 3(b), to resolve a conflict he believes exists between the instant decision and the decision in D.L.J. v. State, 331 So. 3d 227, 228 (Fla. 2d DCA 2021). A conflict exists if decisions

concern “a question of law involved and determined, and such that one decision would overrule the other if both were rendered by the same court.” Ansin v. Thurston, 101 So. 2d 808, 811 (Fla. 1958). To establish a conflict, the decisions are therefore required to “announce antagonistic conclusions” based on “practically the same state of facts.” Id.; see Aravena v. Miami-Dade County, 928 So. 2d 1163, 1166-67 (Fla. 2006)(conflict exists if holdings cannot be reconciled).

The petitioner in the instant case pursued a motion to correct alleged sentencing errors, arguing in part that an assessment of the \$100 minimum cost of prosecution was improper. (A. at 4-5); see § 938.27, Fla. Stat. He asserted that \$100 minimum was improper because the prosecutor was required to, but did not, request the cost before it was assessed. (A. at 5). The trial court found that the prosecution cost was properly imposed and Parks appealed, raising only this issue.

To resolve this issue, the First District construed section 938.27, Florida Statutes, finding that the \$100 minimum cost of prosecution is mandatory and “need not be requested by the State.” (A. at 5, 6). The First District affirmed the trial court’s denial of the motion, but “recognize[d]” the conflict of opinions of district courts, including the

Second District's D.L.J. opinion. (A. at 7).

The respondent recognizes that the instant decision conflicts with the Second District's decision in D.L.J.. The defendant in D.L.J. appealed his adjudication of delinquency, contesting in part the imposition of a \$100 minimum cost of prosecution because it was not "specifically request[ed] ... at sentencing" by the prosecutor. 331 So. 3d at 228. The Second District, relying on section 938.27 and its own precedent, concluded that the cost's imposition without a request by the prosecutor was erroneous. Id.; see § 938.27(1), Fla. Stat.

These holdings of law announced by the First and Second Districts on nearly "the same state of facts" present an express and direct conflict. Ansin, 101 So. 2d at 811. The respondent acknowledges that this conflict presents a lawful basis for the exercise of discretionary jurisdiction and that the Court's exercise of its jurisdiction to resolve this conflict is appropriate.

CONCLUSION

For the foregoing reasons, the conflict between the decisions of the First and Second District Courts of Appeal in the instant case and D.L.J. presents a lawful basis for the exercise of discretionary jurisdiction and the exercise of jurisdiction to resolve this conflict is appropriate.

CERTIFICATE OF SERVICE

I certify that the foregoing was furnished to the following through the Court's e-Filing Portal on December 8, 2023: Kathryn Lane, Esq., at kathryn.lane@flpd2.com.

CERTIFICATE OF COMPLIANCE

I certify that the foregoing was prepared in Bookman Old Style 14-point font and contains 785 words, therefore satisfying the provisions of rule 9.045, Florida Rules of Appellate Procedure.

Respectfully submitted and certified,

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