

IN THE SUPREME COURT OF FLORIDA

JOURDAN DANIEL PARKS,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

CASE NO. SC23-1355  
DCA CASE 1D22-1566  
LT NO. 2020-CF-2475

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ON DISCRETIONARY REVIEW  
FROM THE FIRST DISTRICT COURT OF APPEAL

**JURISDICTIONAL BRIEF OF PETITIONER**

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## **STATEMENT OF THE ISSUE**

The issue presented by the instant case is whether a trial court errs by imposing a minimum cost of prosecution as part of a sentence in the absence of a request for that cost by the prosecution.

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

The following facts come directly from the four corners of Parks v. State, 2023 WL 4924857 (Fla. 1st DCA Aug. 2, 2023), reh'g denied (September 27, 2023), the decision from a panel of the First District Court of Appeal. The slip opinion is included as Appendix A (App. A).

Petitioner entered an open plea to five charges. (App. A 1). As part of his sentence for these five charges, certain costs and fines were imposed. (App. A 1). Despite the prosecution not requesting a cost of prosecution, the sentencing court imposed a \$100 cost of prosecution, the minimum listed by statute, on its own. (App. A 1-2).

On direct appeal to the First District Court of Appeal, Petitioner raised the issue of whether the trial court erred by imposing the cost of prosecution on its own and in the absence of a request by the prosecution. (App. A 1). The First District held that the \$100 cost of prosecution did not need to be requested by the prosecution before being imposed by the trial court. (App. A 2). The First District recognized a conflict among the district courts on this issue. (App. A 4).

Petitioner timely filed a motion for rehearing and rehearing en banc on August 17, 2023, which was denied on September 27, 2023. A Notice to Invoke this Court's discretionary jurisdiction was timely filed on September 28, 2023, in the First District Court of Appeal. This brief on jurisdiction follows.

## **ARGUMENT**

**ISSUE: THIS COURT SHOULD ACCEPT JURISDICTION BECAUSE THE FIRST DISTRICT COURT OF APPEAL'S DECISION IN PARKS V. STATE, 2023 WL 4924857 (FLA. 1ST DCA AUG. 2, 2023), REH'G DENIED (SEPTEMBER 27, 2023), EXPRESSLY AND DIRECTLY CONFLICTS WITH DECISIONS OF OTHER DISTRICT COURTS OF APPEAL.**

The First District Court of Appeal's panel decision in the instant case is in express and direct conflict with a decision of the Second District Court of Appeal on the same question of whether a trial court errs by imposing a minimum cost of prosecution as part of a sentence in the absence of a request for that cost by the prosecution. Specifically, the First District's panel decision expressly and directly conflicts with D.L.J. v. State, 331 So. 3d 227 (Fla. 2d DCA 2021). This Court should exercise its discretion to accept jurisdiction in this case.

Pursuant to Article V, § 3(b)(3) of the Florida Constitution, this Court has discretion to review decisions of a district court of appeal which expressly and directly conflict with a decision of another

district court of appeal or of this Court on the same question of law. See also Fla. R. App. P. 9.030(a)(2)(A)(iv).

An express and direct conflict exists when one decision reaches the “opposite result on controlling facts” from another. See Crossley v. State, 596 So.2d 447, 449 (Fla. 1992). One test for conflict jurisdiction is whether the holdings are irreconcilable. See Aravena v. Miami-Dade County, 928 So.2d 1163, 1166 (Fla. 2006). Express and direct conflict may exist when a district court misapplies a decision of this Court. See Engle v. Liggett Group, Inc., 945 So.2d 1246, 1254 (Fla. 2006).

Express and direct conflict exists between the holding of the First District Court of Appeal in Parks and the holding of the Second District Court of Appeal in D.L.J. In Parks, Petitioner entered an open plea to five charges. (App. A 1). As part of his sentence for these five charges, certain costs and fines were imposed. (App. A 1). Despite the prosecution not requesting a cost of prosecution, the sentencing court imposed a \$100 cost of prosecution, the minimum listed by statute, on its own. (App. A 1-3). The First District held that the trial court did not err by imposing the \$100 cost of prosecution without the request of the

prosecution. (App. A 2). In D.L.J., 331 So. 3d 227 at 228, the sentencing court imposed a \$100 cost of prosecution despite the prosecution not requesting it. The Second District held that the sentencing court erred by imposing the \$100 cost of prosecution without the request of the prosecution. Id. Each court reached a different result on the controlling facts of a sentencing court imposing a \$100 cost of prosecution without the request of the prosecution for that cost. In the First District, this is not error, but in the Second, it is error. Because these holdings are irreconcilable, express and direct conflict exists.

The discretion of this Court should be exercised to grant jurisdiction and review the majority decision in Parks to ensure that the law regarding the imposition of the cost of prosecution is applied uniformly throughout the State. This cost is imposed routinely in criminal cases, and the absence of a uniform application of the law in this area negatively affects the administration of justice. This Court has discretionary jurisdiction to review the majority decision in Parks, and this Court should exercise that discretion.

## **CONCLUSION**

This Court has discretionary jurisdiction based on an express and direct conflict between Parks v. State, 2023 WL 4924857 (Fla. 1st DCA Aug. 2, 2023), reh'g denied (September 27, 2023), and D.L.J. v. State, 331 So. 3d 227 (Fla. 2d DCA 2021). This Court should exercise its discretion and accept jurisdiction to resolve this express and direct conflict.

## **CERTIFICATES**

I hereby certify, pursuant to Florida Rule of Appellate Procedure 9.045, that this brief complies with the applicable font and word-count-limit requirements. I hereby certify that this brief was served, via the Florida Courts E-Filing Portal, on Julian Markham, Assistant Attorney General, at [crimapptlh@myfloridalegal.com](mailto:crimapptlh@myfloridalegal.com), on October 9, 2023.

Respectfully submitted,

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