

ORIGINAL

IN THE SUPREME COURT OF FLORIDA

FILED
THOMAS D. HALL
JUL 26 2000

CLERK, SUPREME COURT
BY DJ

STATE OF FLORIDA,)
)
 Petitioner,)
)
vs.)
)
STEPHEN DRAGANI,)
)
 Respondent.)

Supreme Court Case No. SC 00- 1396
5TH DCA CASE NO. 5D 99-1203

RESPONSE TO PETITIONER'S BRIEF ON JURISDICTION

JAMES B. GIBSON
PUBLIC DEFENDER
SEVENTH JUDICIAL CIRCUIT

BARBARA C. DAVIS
ASSISTANT PUBLIC DEFENDER
FLORIDABARNO. 0419510
112 Orange Avenue, Suite A
Daytona Beach, FL 32 114
(904) 252-3367

COUNSEL FOR RESPONDENT

TABLE OF CONTENTS

	<u>PAGE NO.</u>
TABLE OF CONTENTS	i
TABLE OF CITATIONS	ii
SUMMARY OF ARGUMENT	1
ARGUMENT	2
WHETHER THIS COURT SHOULD ACCEPT DISCRETIONARY JURISDICTION WHERE THE RESOLUTION OF ISSUE DOES NOT HAVE ANY PRACTICAL IMPACT ON THE SENTENCE IMPOSED.	
CONCLUSION	3
CERTIFICATE OF SERVICE	4
CERTIFICATE OF FONT	4

TABLE OF CITATIONS

CASES CITED:

PAGE NO.

Grant v. State

745 So.2d 519 (Fla. 2d DCA 1999)

1, 2

IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA,)
)
 Petitioner,)
)
vs.)
)
STEPHEN DRAGANI,)
)
 Respondent.)
_____)

Supreme Court Case No. SC 00- 1396

5TH DCA CASE NO. 5D 99- 1203

SUMMARY OF ARGUMENT

The Fifth District Court of Appeal acknowledged conflict with Grant v. State, 745 So.2d 5 19 (Fla. 2d DCA 1999), but did not certify conflict. The Fifth District upheld the most severe sentence imposed on Respondent and the effect of any doubling with an habitual offender sentence is minimal. This case is not important enough for this court to accept jurisdiction.

ARGUMENT

WHETHER THIS COURT SHOULD ACCEPT
DISCRETIONARY JURISDICTION WHERE THE
RESOLUTION OF ISSUE DOES NOT HAVE ANY
PRACTICAL IMPACT ON THE SENTENCE
IMPOSED.

The Fifth District Court of Appeal acknowledged conflict with Grant v. State, 745 So.2d 519 (Fla. 2d DCA 1999), but did not certify conflict. The Fifth District upheld the most severe sentence imposed on Respondent and the effect of any doubling with an habitual offender sentence is minimal. This case is not important enough for this court to accept jurisdiction where there is no practical effect on the sentence.

CONCLUSION

Respondent requests this Court deny the Petitioner's request to accept discretionary jurisdiction.

Respectfully submitted,

JAMES B. GIBSON
PUBLIC DEFENDER
SEVENTH JUDICIAL CIRCUIT

Barbara Davis

BARBARA C. DAVIS
ASSISTANT PUBLIC DEFENDER
Florida Bar No. 04 105 19
112 Orange Avenue, Suite A
Daytona Beach, FL 32 114
(904) 252-3367

COUNSEL FOR RESPONDENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been hand delivered to the Honorable Robert A. Butterworth, Attorney General, 444 Seabreeze Boulevard, 5th Floor, Daytona Beach, FL 32 118, via his basket at the Fifth District Court of Appeal and mailed to Mr. Stephen Dragani, DC# 165 145, Tomoka Correctional Institution, 3950 Tiger Bay Road, Daytona Beach, Florida 32124-1098, on this 24th day of July, 2000.

Barbara Davis
BARBARA C. DAVIS
ASSISTANT PUBLIC DEFENDER

CERTIFICATE OF FONT

I hereby certify that the size and style of type used in this brief is point proportionally spaced Times New Roman, 14 pt.

Barbara Davis
BARBARA C. DAVIS
ASSISTANT PUBLIC DEFENDER