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IN THE SUPREME COURT OF FLORIDA

FILED
THOMAS D. HALL
JAN 02 2001

CLERK, SUPREME COURT
BY _____

JOSEPH McBRIDE,
Petitioner,

v.

Case No.

5000-2658

STATE OF FLORIDA,

Respondent.

ON PETITION FOR REVIEW FROM
THE SECOND DISTRICT COURT OF APPEAL
STATE OF FLORIDA

JURISDICTIONAL BRIEF OF RESPONDENT

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STATEMENT OF THE CASE AND FACTS

Respondent accepts Petitioner's statement of the case and facts.

SUMMARY OF THE ARGUMENT

Although this Court may have jurisdiction to review this case, Respondent submits that this Court should decline to exercise its jurisdiction in this case.

ARGUMENT

WHETHER THIS COURT HAS JURISDICTION TO REVIEW THIS CASE BASED ON A CERTIFIED QUESTION OF GREAT PUBLIC IMPORTANCE IN ANOTHER CASE WHICH THE DISTRICT COURT REFERENCED IN A CITATION PCA.

Petitioner's assertion that the Second District Court of Appeal decided this case exclusively on the basis of *State v. Townsend*, 746 So. 2d 495 (Fla. 2d DCA 1999), reversed, 5 Fla. L. Weekly S1112 (Fla. Dec. 7, 2000), is inaccurate, Petitioner having raised two issues on appeal, the second of which had nothing to do with the question the Second District certified to be of great public importance in its *Townsend* opinion,

However, under *Jollie v. State*, 405 So. 2d 418, 421 (Fla. 1981), and *State v. Lofton*, 534 So. 2d 1148 (Fla. 1988), it appears that this Court may have jurisdiction to review this case. Nevertheless, Respondent submits that this Court should decline to exercise its jurisdiction in this case.

CONCLUSION

Respondent respectfully requests that this Court deny review in the instant case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Joseph N. D'Achille, Jr., Special Assistant Public Defender, P.O. Box 9000-Drawer PD, Bartow, Florida 33831-9000, this 29th day of December, 2000.



COUNSEL FOR RESPONDENT

CERTIFICATE OF FONT COMPLIANCE

I HEREBY CERTIFY that the size and style of type used in this brief is 12-point Courier New, in compliance with Fla. R. App. P. 9.210(a)(2).

COUNSEL FOR RESPONDENT