

ORIGINAL

IN THE SUPREME COURT OF FLORIDA

FILED
DEBBIE CAUSSEUX
MAR 03 2000
CLERK, SUPREME COURT
BY _____

CHARLES EDWARDS, :
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Petitioner, :
 :
v. :
 :
STATE OF FLORIDA, :
 :
Respondent. :

CASE NO. SC00-443

_____ /

JURISDICTIONAL BRIEF OF PETITIONER

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SECOND JUDICIAL CIRCUIT

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IN THE SUPREME COURT OF FLORIDA

CHARLES EDWARDS, :
Petitioner, :
VS. : CASE NO.
STATE OF FLORIDA, :
Respondent. :
_____ :

JURISDICTIONAL BRIEF OF PETITIONER

I CERTIFICATION OF FONT

This brief is typed in Courier New 12.

II STATEMENT OF THE CASE AND FACTS

This is an appeal from the decision of the First District Court of Appeal. Edwards v. State, no. 1D98-4284 (Fla. 1st DCA January 31, 2000). In a per curiam affirmance, the court cited Collins v. State, 732 So.2d 1149 (Fla. 1st DCA 1999, on which this court has granted review, 744 So.2d 453 (Fla. Nov. 15, 1999)).

III SUMMARY OF THE ARGUMENT

Under Jollie v. State, infra, the citation by the district court to a case pending a decision in this court creates conflict jurisdiction under article V, § 3(b)(3), Florida Constitution and Rule 9.030(a)(2)(A)(iv), Florida Rules of Appellate Procedure. Because this court has accepted Collins for review,

it should also accept this case for review, in order to promote uniformity of decisions and to serve the interests of justice.

IV ARGUMENT

ISSUE PRESENTED

THE COURT SHOULD ACCEPT THIS CASE TO PROMOTE UNIFORMITY OF DECISIONS.

In Collins v. State, 732 So.2d 1149 (Fla. 1st DCA 1999), the sentence imposed was an upward departure from the guidelines, but the trial court failed to enter written reasons for departure. Because there was no objection, the First District held the issue was not preserved for appeal and also held it was not fundamental error. This court has granted review in Collins, 744 So.2d 453 (Fla. Nov. 15, 1999). This court has also granted review in another case in which the First District affirmed, although no written departure order was entered. Butler v. State, 723 So.2d 865 (Fla. 1st DCA 1998), review granted, 735 So.2d 1283 (Fla. 1999).

The First District court per curiam affirmed (PCA'd) Edwards' conviction and sentence, citing Collins. A PCA cite creates a type of discretionary conflict jurisdiction recognized by this court in Jollie v. State, 405 So.2d 418 (Fla. 1981).

Because the instant case involves the same issue as Collins, and this court has already accepted Collins and Butler for review, petitioner requests that this court also review this case to promote uniformity of decisions.

V CONCLUSION

Based upon the foregoing argument, reasoning, and citation of authority, petitioner requests that this Court exercise its discretion to accept jurisdiction of this case and order briefing on the merits.

Respectfully submitted,

NANCY A. DANIELS
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT

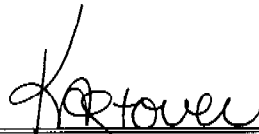


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to James W. Rogers, Assistant Attorney General, by delivery to The Capitol, Plaza Level, Tallahassee, Florida, this 3 day of March, 2000.



KATHLEEN STOVER