

ATTORNEYS FOR RESPONDENT

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STATEMENT OF THE CASE AND FACTS

Respondent accepts Petitioner's Statement of the Case and Facts as correct for the purpose of determining jurisdiction..

SUMMARY OF THE ARGUMENT

Because this Court has already accepted jurisdiction in several cases presenting the same issue as that raised herein, Respondent defers to this Court's discretion as to whether to accept jurisdiction in the instant case.

ARGUMENT

ISSUE

WHETHER THIS COURT SHOULD ACCEPT JURISDICTION OF THE INSTANT DECISION BECAUSE OF AN EXPRESS AND DIRECT CONFLICT WITH A DECISION OF THIS COURT OR OTHER DISTRICT COURT OF APPEAL?

Petitioner correctly states to this Court that the precise issue presented in this case is presently before this Court in State v. Franklin, 836 So. 2d 1112 (Fla. 3d DCA 2003), review granted, SC03-413. Petitioner is unable to argue that this Court should not accept jurisdiction in the instant case and would defer to this Court's discretion on whether to accept jurisdiction,.

CONCLUSION

WHEREFORE based on the foregoing Respondent respectfully defers to this Court's discretion as to whether jurisdiction should be accepted.

CERTIFICATE OF SERVICE

I certify that a copy has been mailed to Susan D. Dunlevy, Concourse Center #4, Suite 200, 3507 E. Frontage Rd., Tampa, FL 33607, (813) 287-7900, on this _____ day of July, 2003.

CERTIFICATION OF FONT SIZE

I hereby certify that this document was generated by computer using Wordperfect 5.1 format with Courier 12 Point Font. The Office of the Public Defender, Tenth Judicial Circuit, is currently in the process of converting from Wordperfect 5.1 format to Microsoft Word format in order to comply with Rule 9.210(a)(2), since Courier New 12 Point Font is not available in Wordperfect 5.1. As soon as this upgrade is completed, Courier New 12 Point Font will be the standard font size used in all documents submitted by undersigned. This document substantially complies with the technical requirements of Rule 9.210(a)(2) and complies with the intent of said rule.

Respectfully submitted,

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