

IN THE SUPREME COURT OF FLORIDA

CASE NO. SC04-

CITY OF MIAMI,

PETITIONER,

VS.

JOSE A. JUAREZ AND CRISTINO NIEVES,

RESPONDENTS.

BRIEF ON JURISDICTION OF CITY OF MIAMI

ON DISCRETIONARY REVIEW
FROM THE THIRD DISTRICT COURT OF APPEAL

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STATEMENT OF THE CASE AND FACTS

This petition for discretionary review is from a PCA with citations. *City of Miami v. Juarez*, 29 Fla. L. Weekly D376 (Fla. 3d DCA Feb. 11, 2004). One of the citations is to *Mulligan v. City of Hollywood*, 871 So. 2d 249 (Fla. 4th DCA 2004), over which this Court has jurisdiction based on a certified question. Case no. SC04-990. Another of the citations is to *City of Miami v. Wellman*, 29 Fla. L. Weekly D328 (Fla. 3d DCA Feb. 4, 2004), for which discretionary jurisdiction is currently being sought.

SUMMARY OF THE ARGUMENT

The court has jurisdiction over this case. The district court relied on a decision of the Fourth District. This Court has jurisdiction over the case from the Fourth District, since the Fourth District certified the question as being of great public importance. The present case is thus a “piggyback” case, over which the Court has jurisdiction.

ARGUMENT

THE COURT HAS JURISDICTION BECAUSE THE DECISION OF THE DISTRICT COURT RELIED ON A DECISION PENDING BEFORE THIS COURT

This Court has jurisdiction over this case, because the decision of the Third District was expressly based on another case over which this indisputedly has jurisdiction.

In this case, the Third District relied on the Fourth District's decision in *Mulligan v. City of Hollywood*, 871 So. 2d 249 (Fla. 4th DCA 2004). This Court has jurisdiction over *Mulligan*, based on a question certified to be of great public importance. The present case is thus a piggyback case, and this Court has jurisdiction over this case. *See Jollie v. State*, 405 So. 2d 418 (Fla. 1981); *Harrison v. Hyster Co.*, 515 So. 2d 1279 (Fla. 1987).

This is a case in which the Court should exercise its discretion in favor of jurisdiction. As the Fourth District concluded, the case presents an issue of great public importance. The case is importance for its legal holding on the division of powers between state and local government. The case also has an important practical effect: if the decisions of the district courts are upheld, the municipalities will lose a useful tool, and be forced to pay many millions of dollars. For all these reasons, the Court should exercise its discretionary jurisdiction.

CONCLUSION

Based on the reasons stated, the Court should grant review of this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE AND COMPLIANCE

WE HEREBY CERTIFY that a true and correct copy of the foregoing was mailed this 16th day of July, 2004, to Ronald S. Guralnick, Esq., 550 Brickell Avenue, PH1, Miami, FL 33131.

We hereby certify that this brief is in Times Roman 14 point, and in compliance with the type requirements of the Florida Rules of Appellate Procedure.
