

IN THE SUPREME COURT OF FLORIDA

COMER H. BRYAN, III,
Petitioner,

v.

CASE NO.: SC04-23

STATE OF FLORIDA,

DCA CASE NO.: 5D02-1383

Respondent.

ON DISCRETIONARY REVIEW FROM
THE FIFTH DISTRICT COURT OF APPEAL

JURISDICTIONAL BRIEF OF RESPONDENT

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OTHER AUTHORITIES:

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STATEMENT OF CASE AND FACTS

The Fifth District Court of Appeals affirmed the Petitioner's judgment and sentence for violation of probation on the charge of driving while license suspended, citing the case of Thompson v. State, 808 So. 2d 284 (Fla. 5th DCA), rev. granted, 826 So. 2d 994 (Fla. 2002).

SUMMARY OF ARGUMENT

This Court does have the discretion to accept jurisdiction of this case.

ARGUMENT

THIS COURT DOES HAVE THE
DISCRETION TO ACCEPT JURISDICTION
OF THIS CASE.

This Court has jurisdiction under article V, section (3)(b)(3) of the Florida Constitution where a decision of a district court "expressly and directly conflicts" with a decision of this Court or another district court. Where the district court's decision cites as controlling law a decision that is either pending review in or has been reversed by this Court, this Court has the discretion to accept jurisdiction. Jollie v. State, 405 So. 2d 418, 420 (Fla. 1981).

The State acknowledges that this Court has the authority to accept jurisdiction of this case in light of the district court's citation to and reliance upon Thompson v. State, 808 So. 2d 284 (Fla. 5th DCA), rev. granted, 826 So. 2d 994 (Fla. 2002).

CONCLUSION

Based on the arguments and authorities presented herein, the Respondent respectfully acknowledges that this Court does have the discretion to accept jurisdiction of this case.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above Jurisdictional Brief has been furnished by delivery via the basket of the Office of the Public Defender at the Fifth District Court of Appeal to Kevin R. Holtz, Assistant Public Defender, 112 Orange Ave. Ste. A., Daytona Beach, FL 32114, this _____ day of January, 2004.

CERTIFICATE OF COMPLIANCE

The undersigned counsel certifies that this brief was typed using 12 point Courier New, a font that is not proportionately spaced.

Respectfully submitted,

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