

IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA,

Petitioner,

v.

ZACHERY ANTONIO DENEGALL,

Respondent.

Case No.

Lower Tribunal: 2D05-1728

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

JURISDICTIONAL BRIEF OF PETITIONER

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STATEMENT OF THE CASE AND FACTS

The opinion of the Second District Court of Appeal in Denegall v. State, 2D05-1728 (Fla. 2d DCA August 3, 2007), a copy of which is appended to Petitioner's Brief on Jurisdiction, outlines the relevant facts at this stage of the proceedings.

SUMMARY OF THE ARGUMENT

The Second District Court of Appeals in Denegall v. State, 2D05-1728 (Fla. 2d DCA August 3, 2007) certified direct conflict with decision of the First District in Ridgeway v. State, 892 So. 2d 538 (Fla. 1st DCA 2005). The Second District cited its opinion in Griffin v. State, 946 So. 2d 610 (Fla. 2d DCA 2007) where it had previously certified conflict with Ridgeway, supra. On July 12, 2007, the Florida Supreme Court accepted jurisdiction to review this appellate court's decision in Griffin, supra, based upon certified conflict with Ridgeway, supra, in Griffin v. State, SC07-168. Since the issue in question is already pending before this Court, conflict jurisdiction should be granted in the instant case.

ARGUMENT

WHETHER CONFLICT EXISTS BETWEEN THE INSTANT DECISION AND A DECISION THE FIRST DISTRICT COURT OF APPEALS ON THE ISSUE OF WHETHER IMPOSITION OF MANDATORY COURT COSTS PROVIDED BY § 985.185(1)(A), Fla. Stat. (2004) MAY BE APPLIED RETROACTIVELY.

In Ridgeway v. State, 892 So. 2d 538 (Fla. 1st DCA 2005), the First District Court of Appeals held the court cost imposed by § 985.185(1)(a), Fla. Stat. (2004) imposed constituted a mandatory, non-punitive civil remedy and could be applied retroactively. The Second District Court of Appeals in Griffin v. State, 946 So. 2d 610 (Fla. 2d DCA 2007), disagreed and certified conflict with Ridgeway, supra. The Court has accepted jurisdiction in Griffin v. State, SC07-168.

In the instant case of Denegall v. State, 2D05-1728 (Fla. 2DCA. August 3, 2007), Second District Court of Appeals, relying upon its previous decision in Griffin, 946 So. 2d 610, again certified conflict with Ridgeway, supra.

Jurisdiction based upon certified conflict should be granted in the instant case since this Court has already accepted jurisdiction of the Griffin case in Griffin v. State, SC07-168.

CONCLUSION

Petitioner respectfully requests this Honorable Court accept jurisdiction of the instant case based upon certified conflict with the First District Court of Appeals in Ridgeway, *supra*.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY a true and correct copy of the foregoing has been furnished by U.S. mail to Douglas S. Connor, Assistant Public Defender, P.O. Box 9000–Drawer PD, Bartow, Florida 33831-9000, this 28th day of August 2007.

CERTIFICATE OF FONT COMPLIANCE

I HEREBY CERTIFY 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).

Respectfully submitted,

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