

IN THE SUPREME COURT OF FLORIDA

ERIC M. YOUNG,

Petitioner,

v.

CASE NO. SC11-2151

STATE OF FLORIDA,

Respondent.

_____ /

ON DISCRETIONARY REVIEW FROM
THE FIFTH DISTRICT COURT OF APPEAL

JURISDICTIONAL BRIEF OF RESPONDENT

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STATEMENT OF THE CASE AND FACTS

The Petitioner's version of the facts and issues in this case is not based on anything found in the lower court's opinion, which reads in its entirety as follows:

We affirm the defendant's convictions for burglary of a dwelling with an assault or battery with a dangerous weapon and for carjacking with a weapon. We certify conflict with *Munoz v. State*, 937 So. 2d 686 (Fla. 2d DCA 2006).

Young v. State, 36 Fla. L. Weekly D2338 (Fla. 5th DCA Oct. 21, 2011).

SUMMARY OF ARGUMENT

This Court has the discretion to review this case, but jurisdiction is not warranted here, where the lower court's decision includes no discussion of the relevant issues.

ARGUMENT

THIS COURT HAS THE DISCRETION TO ACCEPT JURISDICTION OF THIS CASE, BUT JURISDICTION IS NOT WARRANTED HERE.

This Court has jurisdiction under article V, section (3)(b)(4) of the Florida Constitution to review "any decision of a district court of appeal that ... is certified by it to be in direct conflict with a decision of another district court of appeal". See generally *State v. Vickery*, 961 So. 2d 309, 311 (Fla. 2007). Under this provision, then, this Court has the discretion to grant review here.

However, the State submits that accepting jurisdiction is not warranted where, as here, the lower court's opinion includes no analysis of the relevant legal issues or the basis for the purported conflict. While Petitioner's brief includes an extensive discussion of potential issues, this discussion is not reflected in the lower court's opinion, and this opinion adds nothing to the body of case law on the issues discussed by Petitioner.

CONCLUSION

Based on the arguments and authorities presented herein, the Respondent respectfully requests this Honorable Court decline to exercise jurisdiction.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above Jurisdictional Brief has been furnished to James R. Wulchak, counsel for Petitioner, 444 Seabreeze Boulevard, Suite 210, Daytona Beach, Florida 32118, by hand delivery to the Public Defender's Basket at the Fifth District Court of Appeal, this __ day of November, 2011.

CERTIFICATE OF COMPLIANCE

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

Kristen L. Davenport
Assistant Attorney General