

SC12-2669  
In The District Court Of Appeal  
First District, State Of Florida

FILED  
THOMAS D. HALL  
2012 DEC 26 PM 2:25  
CLERK, SUPREME COURT  
BY \_\_\_\_\_

Robert Blaine Leftwich,  
Petitioner,

vs,

Case No: 1D12-1739  
L.T.: 2011 CA 002271

Florida Department Of  
Corrections,  
Respondent

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Jurisdictional Brief

pro se

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## Statement Of The Case And Facts

Petitioner, (Leftwich-hereafter) is an inmate in the custody of the Department Of Corrections currently serving 42 years.

1. On August 7, 1989 Leftwich recieved two (2) St. Johns County guideline sentences totaling 12 years.
2. On August 26, 1989 Leftwich committed a new crime while in prison resulting in an additional 30 year habitual violent felony offender sentence from Bradford County. ✓
3. On August 18, 2011 Leftwich filed a petition for writ of mandamus in Leon County Circuit Court claiming he is entitled to all provisional release credits<sup>2/</sup> on his non-hibitual sentences from St. Johns County relying on Downs v Crosby, 874 So2d 648 (Fla. 2d DCA 2004).
4. On March 21, 2012 the Circuit Court denied said writ relying on McBride v Moore, 780 So2d 221 (Fla 1st DCA 2001).  
The denial stated in pertinent part:

Downs conflicts with McBride. This Court is bound by the First District Court Of Appeals decision in McBride.

5. On March 30, 2012 Leftwich filed a petition for writ of Certiorari in the District Court of Appeals,

First District, State Of Florida.

6. On November 26, 2012 the First District filed its opinion,<sup>3/</sup> per Curiam, with an opinion Certifying that their decision conflicts with Downs v Crosby, 874 So.2d 648 (Fla. 2d DCA 2004).

1/ Fla. Stat. § 944.47 poss. inmate contraband, to wit: 0.5 grams marijuana.

2/ Fla. Stat. § 944.277 Provisional Release Statute, authorized the D.O.C to apply release gain-time credits to eligible inmates each time the prison population reached a certain level.

3/ See; Appendix One

## Summary Of Argument

The Florida Supreme Court has jurisdiction to review a "direct conflict" with another district court, Fla.R. App.P. 9.030(a)(2)(a)(vi) and pursuant to Art. V, § 3(b)(3) Fla. Const. to review a district court decision that Certify conflict with another district court of appeal.

# Argument

## Issue One

Whether the Florida Supreme Court has jurisdiction to review a Certified Conflict when a District Court Certifies that its decision is in direct conflict with a decision of another District Court of Appeal.

## Standard Of Review

The Florida Supreme Court has discretionary jurisdiction to review a decision of a District Court of Appeal that are Certified to be in direct conflict with decisions of another District Court of Appeal. Art. 3(b)(3) Fla. Const.; Fla. R. App. P. 9.030 (a)(2)(a)(vi).

## Argument In Support Issue One

Fla. R. App. P. 9.030 (a)(2)(a)(vi) provides that; discretionary jurisdiction may be sought to review decisions of District Courts of Appeal that are Certified to be in direct conflict with decisions of other District Courts of Appeal.

On October 12, 2005 the Florida Supreme Court exercised its discretion and discharged its jurisdiction as moot because Downs was released from custody of the Fla. Dept. of Corrections. See; Crosby v Downs, 913 So.2d. 579 (Fla. 2005).

Downs was released from the D.O.C. on August 13, 2004 and said release went unchallenged by the D.O.C.

The Florida Supreme Court accepted jurisdiction to review Downs based on express and direct conflict with a decision of another district. See; James V. Crosby, Jr. vs Clarence W. Downs, 888 So.2d. 17 (Fla. 2004).

The First District Court of Appeal, in its opinion rendered on November 26th, 2012 Certified that its decision in McBride v Moore, 780 So.2d. 221 (Fla. 1st DCA 2001) conflicts with Downs v Crosby, 874 So.2d. 648 (Fla. 2d DCA 2004). See; appendix one

### The Case at Bar,

Fla. Const. Art. V, § 3 (b)(4) provides that; discretionary review jurisdiction also exists when a District Court Certifies that its decision is in direct conflict with a decision of another District Court of Appeal.



## Conclusion

The merits of this case substantially affect the laws of the state, and this Court in its discretion and in the interest of justice should resolve the conflict within the districts.

## Relief Sought

The Petitioner prays that this Honorable Court will accept jurisdiction to resolve Certified Conflict in this cause.

Respectfully Submitted,

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## Certificate Of Service

I certify that a true and correct copy of the foregoing (Jurisdictional Brief) has been placed in the hands of Calhoun C.I. staff for mailing by U.S. mail on the 18<sup>th</sup> day of December, 2012 to:

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