

IN THE SUPREME COURT OF FLORIDA

FILED
S'D J. WHITE
MAY 9 1985
CLERK, SUPREME COURT
By _____
Chief Deputy Clerk

RAYMOND EUGENE JOHNSON,)
Petitioner,)
v.)
STATE OF FLORIDA,)
Respondent.)

Case No. 66,919
2DCA No. 84-2037

RESPONDENT'S BRIEF ON JURISDICTION

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PRELIMINARY STATEMENT

This is a petition for discretionary review from the District Court of Appeal of Florida, Second District. In this brief, the parties will be referred to by their proper names or as they stand before this court.

STATEMENT OF THE CASE AND FACTS

The Respondent accepts Petitioner's Statement of the Case and Facts as a substantially accurate account of the proceedings below, with such exceptions or addition as set forth in the Argument portion of this Brief.

SUMMARY OF THE ARGUMENT

Even though a conflict of decisions exists, this court may decline to review a decision of the District Court of Appeal which lacks importance to the jurisprudence of the State.

ARGUMENT

THE DECISION OF THE DISTRICT COURT
OF APPEAL IN THE CASE AT BAR IS IN
DIRECT CONFLICT WITH THE DECISION
OF THE FIFTH DISTRICT COURT OF APPEAL
IN RAMSEY V. STATE, 442 So.2d 303
(FLA. 5TH DCA 1983)

The discretionary jurisdiction of the Supreme Court may be invoked by a District Court of Appeal decision that is in direct conflict with a decision of another appellate court or the Supreme Court on the same point of law. Florida Constitution Act V, Section 3(b)(3); Fla.R.App.P. Rule 9.030 (a)(2)(A)(iii). The term "may" has been resurrected to its original stature, so that the Supreme Court can decline to review any decision of the District Court which the court deems to lack importance to the jurisprudence of the State, even though a conflict of decision exists. 54 Fla. B.J. 406, 411 (1980). Thus, even though a conflict exists between the present decision and Ramsey v. State, 442 So.2d 303 (Fla. 5th DCA 1983), this court may still decline to review the decision of the Second District Court of Appeal.

CONCLUSION

Based on the facts as related above and the caselaw as cited herein, respondent would pray that this Court deny the Petition for Discretionary Review.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail to Michael E. Raiden, Assistant Public Defender, Hall of Justice Building, 455 N. Broadway, Bartow, Florida 33830 this ^{7th} day of May, 1985.

Theda James Davis
OF COUNSEL FOR RESPONDENT