

IN THE SUPREME COURT OF FLORIDA

PAUL PEREZ,

Petitioner,

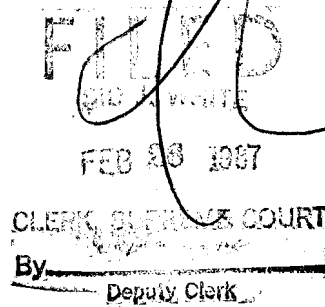
v.

CASE NO. 70,027

STATE OF FLORIDA,

Respondent.

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RESPONDENT'S BRIEF ON JURISDICTION

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SUMMARY OF ARGUMENT

The decision of the district court is clear, straightforward, correct, and needs no further review.

ARGUMENT

ISSUE I: WHETHER THIS COURT SHOULD EXERCISE ITS DISCRETIONARY JURISDICTION.

Respondent has no dispute with petitioner's "argument" that discretionary review of the instant decision does lie. However, the power to review does not, in itself, necessarily warrant its exercise. The opinion of the Fifth District Court of Appeal is clear and straightforward, and would not benefit from further review. If, as petitioner maintains, the statutory hearsay exception at issue is in need of additional judicial explication, this court may prefer that other district courts, faced with differing factual scenarios, mull over the possibilities before this court issues its final resolution.

CONCLUSION

The opinion of the Fifth District is correct, and does not require review; exercise of this court's discretionary jurisdiction is consequently unnecessary.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the above and foregoing Respondent's Brief on Jurisdiction has been delivered, by mail, to Christopher S. Quarles, Assistant Public Defender for petitioner, at 112 Orange Avenue, Suite A, Daytona Beach, Florida 32014, this 23<sup>rd</sup> day of February, 1987.

*Ellen D. Phillips*

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