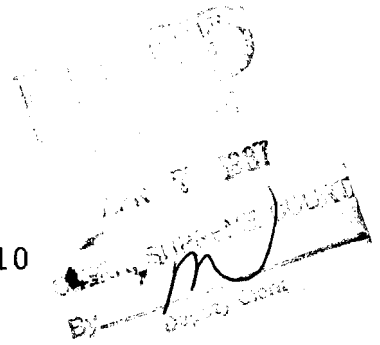


IN THE SUPREME COURT
OF FLORIDA

RALPH RAMER,)
)
 Petitioner,)
)
 vs.)
)
 STATE OF FLORIDA,)
)
 Respondent.)
_____)

CASE NO. 70,110



RESPONDENT'S BRIEF IN
OPPOSITION TO JURISDICTION

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TABLE OF CONTENTS

	<u>PAGE</u>
LIST OF CITATIONS	ii
PRELIMINARY STATEMENT	1
STATEMENT OF THE CASE AND FACTS	1
ARGUMENT	2-3
CONCLUSION	4
CERTIFICATE OF SERVICE	4

LIST OF CITATIONS

<u>CASE</u>	<u>PAGE</u>
<u>Spradley v. State</u> , 293 So.2d 697 (Fla. 1974)	3

OTHER AUTHORITIES

<u>Fla. Stat.</u> (1985) §30.09(4)	2,3
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PRELIMINARY STATEMENT

Petitioner was the defendant in the Criminal Division of the Circuit Court of the Fifteenth Judicial Circuit, in and for Palm Beach County, Florida, and the Appellee in the District Court of Appeal, Fourth District. Respondent was the prosecution in the trial court and the Appellant in the Fourth District.

In the brief the parties will be referred to as they appear before this Honorable Court.

The following symbols will be used:

"RA" Respondent's Appendix

STATEMENT OF THE CASE AND FACTS

Respondent accepts Petitioner's Statement of the Case and Facts as found on page two (2) of Petitioner's Brief of Jurisdiction.

ARGUMENT

THE DECISION OF THE DISTRICT COURT
OF APPEAL, FOURTH DISTRICT, DOES
NOT EXPRESSLY AFFECT A CLASS OF
CONSTITUTIONAL OFFICERS.

Petitioner seeks to invoke the discretionary jurisdiction of this court under Article V §3(b)(3) on the grounds that the decision of the District Court of Appeals, Fourth District, expressly affects a class of constitutional or state officers. However, Petitioner cannot and does not show that the decision of the District Court of Appeal directly and expressly affects a class of constitutional officers, and for this reason, this court should decline to exercise its discretion to review this cause.

In the instant case, a city police officer conducted a search outside his municipal limits. (R.A.1). The officer however, was a duly sworn and properly appointed special deputy sheriff. (R.A.1). Although the trial court found that §30.09(4), Fla. Stat.(1985) lists the only circumstances under which a special duty sheriff may act, the district court properly concluded that the exceptions set out in 30.09(a)-(g) merely list the circumstances under which the provisions for bonds and sureties of section 30.09 are not applicable, and do not restrict the activities of a special deputy sheriff solely to those listed. Indeed, a plain reading of the statute itself reveals that the circumstances listed in §30.09 (a)-(g) are merely exceptions to the bond requirements of §30.09 as the statute is so captioned and its meaning is clear.

For this reason, the decision of the Fourth District is correct and this Court should decline to exercise its discretionary review.

Moreover, contrary to Petitioner's assertion, the decision of the District Court of Appeals does not expressly empower the sheriffs of every county to appoint special deputies for purposes other than those enumerated in §30.09(4). In Spradley v. State, 293 So.2d 697 (Fla. 1974), this Court held that in order to vest the Supreme Court with certiorari jurisdiction because a criminal case affects a class of constitutional or state officers, the decision must directly and in some way, exclusively affect the duties, powers, validity, formation, termination or regulation of a particular class of constitutional or state offices, and the decision must be one which does more than simply modify or construe or add to case law.

At bar, the decision in the instant case does not directly and exclusively affect the duties of a particular class of constitutional officers. Rather, the decision on this issue affects only the substantive law of the authority of one properly appointed special deputy to execute a search warrant outside his municipal limits under the unique circumstances present sub judice. Since §30.09(4) merely lists the exceptions to the bond requirements of Chapter 30 and does not purport to constitute the only circumstances under which a special deputy may act, this Court should decline to accept jurisdiction of this cause.

CONCLUSION

Based upon the foregoing argument and authorities cited therein, the Respondent respectfully requests that this Honorable Court decline to accept jurisdiction of the case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Brief of Respondent on Jurisdiction has been furnished by U.S. Mail to Philip G. Butler, Jr., Esq., 324 Datura Street, Ste. 320, West Palm Beach, Florida 33401, this 3rd day of April, 1987.


Of Counsel