

IN THE SUPREME COURT OF FLORIDA

FILED

SID J. WHITE

JUL 21 1987

CLERK, SUPREME COURT

By

CASE NO. 70,150

STATE OF FLORIDA,

Petitioner,

vs.

GERARDO FUNDORA,

Respondent.

ON PETITION FOR DISCRETIONARY REVIEW

BRIEF OF RESPONDENT ON THE MERITS

MICHAEL E. ALLEN
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT
P. O. BOX 671
TALLAHASSEE, FLORIDA
PHONE: 904/488-2458

ATTORNEY FOR RESPONDENT

TABLE OF CONTENTS

	<u>PAGE</u>
TABLE OF CONTENTS	i
TABLE OF AUTHORITIES	ii
STATEMENT OF THE CASE AND FACTS	1
STATEMENT OF THE ISSUE	1
SUMMARY OF ARGUMENT	
ARGUMENT	2
CONCLUSION	2
CERTIFICATE OF SERVICE	3

TABLE OF AUTHORITIES

CASES

PAGE

State v. Ginebra

2

SUMMARY OF ARGUMENT

ARGUMENT

Since the legal issues involved herein are the same as those involved in State v. Ginebra, for his argument respondent refers this Court to the brief and motion for rehearing filed in behalf of Lazaro Ginebra. The said brief and motion are included in the appendix to this brief.

CONCLUSION

Upon the arguments and authorities set forth in the brief and motion for rehearing heretofore filed in behalf of Lazaro Ginebra, the Third District's opinion in Fundora v. State should be affirmed.

Respectfully submitted,



MICHAEL E. ALLEN
PUBLIC DEFENDER
SECOND JUDICIAL CIRCUIT
P. O. Box 671
Tallahassee, Florida 32302
Phone: 904/488-2458

ATTORNEY FOR RESPONDENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing has been furnished to Richard L. Polin, Assistant Attorney General, Florida Regional Service Center, Ruth Bryan Owens Rhode Building, 401 N.W. 2nd Avenue (Suite 820), Miami, Florida 33128 and to Mr. Gerardo Fundora, #100022, Polk Correctional Institution, 3876 Evans Road, Box 50, Polk City, Florida 33868, this 20th day of July, 1987.


MICHAEL E. ALLEN