

# SUPREME COURT OF FLORIDA

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No. 73,999

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STATE OF FLORIDA, Petitioner,

vs.

ROOSEVELT JONES, Respondent

[March 29, 1990]

## OPINION:

In *Jones v. State*, 548 So.2d 244, 244 n.2 (Fla. 3d DCA 1989), the district court certified the following question as one of great public importance:

Whether a twelve-person jury is required in a first degree murder case in which the prosecution waives the death penalty?

We have jurisdiction. Art. V, § 3(b)(4), Fla. Const. In *State v. Griffith*, 561 So. 2d 528 (Fla. 1990), we answered the certified question with a qualified affirmative and held that, regardless of whether the state seeks the death penalty, a twelve-person jury is required in first-degree murder trials unless waived by the defense. In this case defense counsel's agreement with the state to trial by a six-person jury in exchange for the state's waiver of the death penalty constituted a valid waiver of Jones's statutory right to trial by a twelve-person jury.\* *Griffith*. We therefore quash the district court's decision.

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\* The following exchange took place on the record.

MR. SOHN: [Defense Counsel]: It's my understanding the State is waiving the death penalty. We have agreed to a jury of six.

MR. NORRIS: [Prosecutor]: That's correct, Judge.

It is so ordered.

JUDGES: McDonald, J., Ehrlich, C.J., and Shaw, Barkett, Grimes and Kogan, JJ., concur.  
Overton, J., concurs in result only.

OPINION BY: McDONALD

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Miami, Florida,

for Petitioner.

Bennett H. Brummer, Public Defender and Harvey J. Sepler, Assistant Public Defender,  
Eleventh Judicial Circuit, Miami, Florida,

or Respondent.