

IN THE SUPREME COURT OF FLORIDA

STEVE ANTON DAVIS,

Petitioner,

v.

STATE OF FLORIDA,

Appellee.

CASE NO. 76,043

JUL 8 1976

RESPONDENT'S BRIEF ON JURISDICTION

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

DAVID S. MORGAN
ASSISTANT ATTORNEY GENERAL
Florida Bar No. 651265
210 N. Palmetto Avenue
Suite 447
Daytona Beach, FL 32114
(904) 238-4990

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SUMMARY OF ARGUMENT

This court may exercise its discretionary jurisdiction if it so chooses.

ISSUE

WHETHER THIS COURT HAS DISCRETIONARY
JURISDICTION?

Discretionary jurisdiction is vested in this court under Article V, Section 3(b)(3), of the Florida Constitution, which provides:

JURISDICTION.- The supreme court:

May review any decision of a district court of appeal that expressly declares valid a state statute, or that expressly construes a provision of the state or federal constitution, or that expressly affects a class of constitutional or state officers, or that expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law.

See also Fla.R.App.P. 9.030(a)(2)(A)(iv).

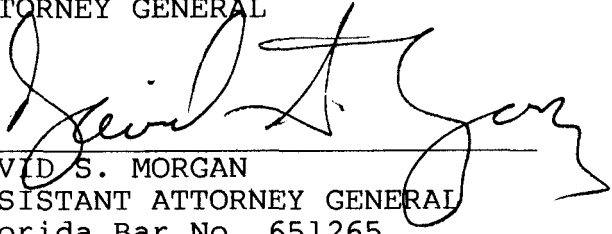
The opinion of the Fifth District Court of Appeal in this case, Davis v. State, 15 F.L.W. D880 (Fla. 5th DCA April 5, 1990), concluded with the following: "We acknowledge conflict with V.A.A. v. State, 15 F.L.W. D672 (Fla. 2d DCA Mar. 9, 1990)." In Davis the fifth district held that a defendant could be convicted of both simple possession and the delivery of the same quantum of cocaine. Conversely, the second district held that such convictions represented a double jeopardy violation even though the crimes at issue had been committed after the effective date of §775.021(4)(b).

CONCLUSION

This court has jurisdiction to exercise discretionary review.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

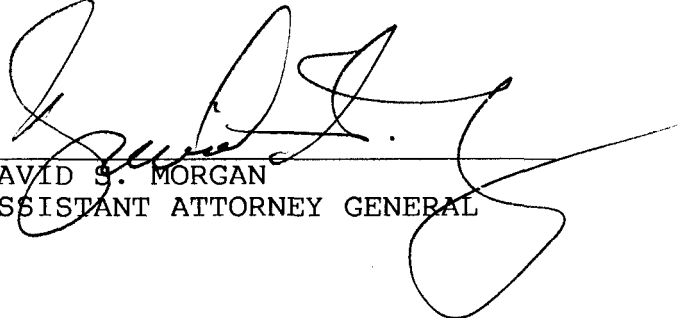


DAVID S. MORGAN
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Florida Bar No. 651265
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Suite 447
Daytona Beach, FL 32114
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COUNSEL FOR RESPONDENT

CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to Michael J. Snure and David Henson, Esqs., Muller, Kirkconnell, Lindsey & Snure, P.O. Box 2728, Winter Park, FL 32790, by mail delivery on this 2d day of July, 1990.



DAVID S. MORGAN
ASSISTANT ATTORNEY GENERAL