

IN THE SUPREME COURT OF FLORIDA

ERNESTO AMADO,

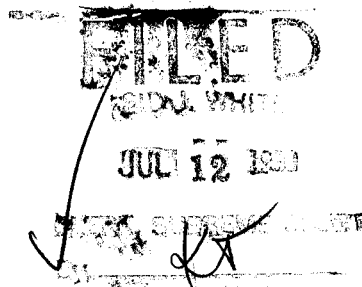
Petitioner,

v.

Case No. 76,209
2DCA No. 87-1859

STATE OF FLORIDA,

Respondent.



DISCRETIONARY REVIEW OF THE DECISION OF THE
SECOND DISTRICT COURT OF APPEAL
SECOND DISTRICT

Respondent
BRIEF OF ~~PETITIONER~~ ON JURISDICTION

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SUMMARY OF THE ARGUMENT

Although the present case expressly conflicts with a decision of the Fourth District, the present case is the better view, as it is more in line with this Court's holding in State v. Daophin, *infra*.

ARGUMENT

ISSUE

WHETHER THIS COURT SHOULD EXERCISE ITS
DISCRETIONARY JURISDICTION OVER THE INSTANT
CASE?

Petitioner invites this Court to exercise its discretionary jurisdiction over the decision of the Second District in the instant case as it expressly conflicts with one of the Fourth District on the same question of law.¹ Although there is an express conflict between the districts, the Second District's opinion is clearly the better reasoned, and it is more in line with this Court's decision in State v. Daophin, 533 So.2d 761 (Fla. 1988). Accordingly, this Court should exercise its discretion and decline Petitioner's invitation.

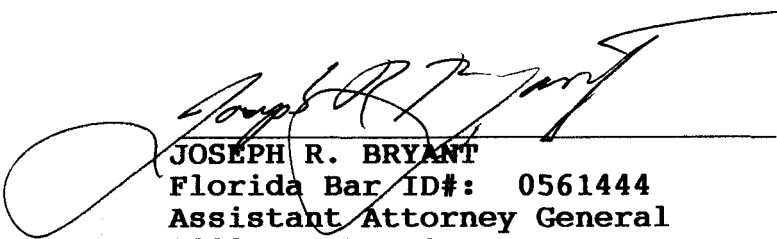
¹ Rule 9.030(a)(2)(A)(iv), Fla.R.App.P. (1990).

CONCLUSION

Based on the foregoing arguments and citations of authority, the Petitioner respectfully requests this Honorable Court to decline jurisdiction in this case.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by U.S. Mail to Kevin Briggs, Esquire, Assistant Public Defender, Polk County Courthouse, P. O. Box 9000 - Drawer PD, Bartow, Florida 33830, on this 10th day of July, 1990.



JOSEPH R. BRYANT

OF COUNSEL FOR PETITIONER