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~~DEC 13~~ 1991

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

DENNIS BUCKHALTER,
Petitioner,

v.

CASE NO. 78,983

STATE OF FLORIDA,
Respondent.

_____ /

RESPONDENT'S BRIEF ON JURISDICTION

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SUMMARY OF ARGUMENT

Even though the district court recognized conflict, this court may decline to accept jurisdiction.

ARGUMENT

WHETHER THE DISTRICT COURT'S
DECISION DIRECTLY AND EXPRESSLY
RECOGNIZES CONFLICT WITH JOHNSON V.
STATE.

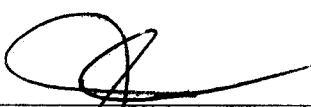
The district court recognized conflict with *Johnson v. State*, 568 So.2d 519 (Fla. 1st DCA 1990). *Buckhalter v. State*, 16 FLW D2772 (Fla. 5th DCA October 31, 1991). Even though the district court recognized conflict, this court may decline to accept jurisdiction. Rule 9.030(2)(A), Fla.R.App.P.

CONCLUSION

Based on the arguments and authorities presented herein, the State of Florida respectfully requests the court to decline to accept jurisdiction.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

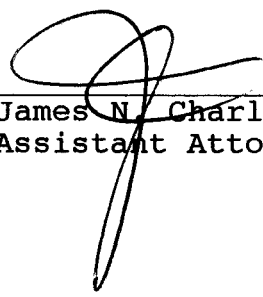


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing brief has been furnished by delivery to Brynn Newton, assistant public defender and counsel for Petitioner, this 11th day of December, 1991.



James N. Charles
Assistant Attorney General