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AUG 28 1992

IN THE SUPREME COURT OF FLORIDA

CLERK, SUPREME COURT.

By \_\_\_\_\_  
Chief Deputy Clerk

CASE NO. 80,203

**JOAN LESLIE FOX,**

Petitioner,

v.

**STATE OF FLORIDA,**

**Respondent.**

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RESPONDENT'S ANSWER BRIEF ON THE MERITS

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STATEMENT OF THE CASE AND FACTS

Respondent accepts the Statement of the Case and Facts  
as given in Petitioner's Initial Brief.

SUMMARY OF THE ARGUMENT

This Court's holding in Scates v. State, 17 F.L.W. 467 (Fla. July 23, 1992) requires that the Fourth District affirm Petitioner's sentence.

A R G U M E N T

**THE QUESTION CERTIFIED BY THE  
FOURTH DISTRICT WAS DECIDED  
IN SCATES v. STATE.**

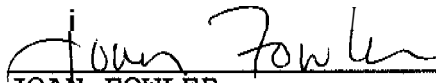
Below, the Fourth District Court of **Appeal** affirmed Petitioner's conviction but reversed the sentence and order of probation imposed. **The** court also certified the same question as in Scates v. State. **This** court recently decided Scates and held "that trial judges may refer a defendant convicted under section **893(1)(e)(1)** to a drug abuse program pursuant to Section **397.12** rather than impose a minimum three-year sentence." Scates v. State, 17 F.L.W. S467 (Fla. July 23, 1992). **This Court's** opinion in Scates is dispositive and requires that **the** Fourth District affirm the sentence and the order of probation imposed in the trial court.

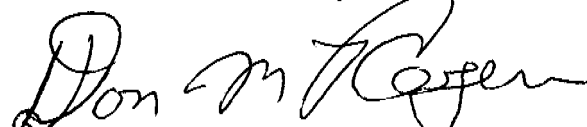
CONCLUSION

The **case** should be REMANDED to the Fourth District Court of Appeal with directions to fallow this Court's holding in Scates v. State.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Brief has been furnished by courier to: BARBARA WHITE, Assistant Public Defender, Fifteenth Judicial Circuit, counsel for Petitioner, 421 Third Street, West Palm Beach, Florida 33401, this 26<sup>th</sup> day of August, 1992.

  
\_\_\_\_\_  
Of Counsel

/rb