

FILED

SID J. WHITE

AUG 24 1992

CLERK, SUPREME COURT

By [Signature]
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

CASE NO. 80,293

PAUL RIDLEY,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

ON DISCRETIONARY REVIEW FROM THE DISTRICT COURT
OF APPEAL OF THE STATE OF FLORIDA, FOURTH DISTRICT

RESPONDENT'S BRIEF ON JURISDICTION

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TABLE OF CITATIONS

<u>CASE</u>	<u>PAGE</u>
<u>Amaya v. State,</u> 580 So.2d 885 (Fla. 2d DCA 1991).....	3,4

OTHER AUTHORITIES

Article V, Section 3(b), Fla. Const. (1980).....	4
<u>Fla.R.App.P. 9.030(a)(2)(A)(IV)</u>	4

PRELIMINARY STATEMENT

The Petitioner was the Appellant in the Fourth District Court of Appeal and the defendant in a criminal prosecution from the Seventeenth Judicial Circuit, in for Broward County. the Respondent, State of Florida, was the Appellee and the prosecution, respectively in the lower courts. In this Brief, the parties will be referred to as they appeal before this Honorable Court.

The symbol "PA" will be used to refer to Exhibit A of Petitioner's Appendix, which is a conformed copy of the District Court's opinion.

STATEMENT OF THE CASE AND FACTS

Respondent accepts Petitioner's statement of the case and facts.

SUMMARY OF ARGUMENT

Respondent agrees that the opinion below conflicts with Amaya v. State, 580 So.2d 885 (Fla. 2d DCA 1991), but argues that the Fourth District Court's opinion is a correct analysis of the court of law. Respondent asks that this court not accept jurisdiction.

ARGUMENT

POINT I

ALTHOUGH PETITIONER PROPERLY INVOKES THE DISCRETIONARY JURISDICTION OF THIS COURT SINCE THE DECISION OF THE FOURTH DISTRICT COURT OF APPEAL DOES EXPRESSLY AND DIRECTLY CONFLICT WITH A DECISION OF THE SECOND DISTRICT COURT OF APPEAL, THIS COURT NEED NOT ACCEPT JURISDICTION.


Petitioner seeks review through conflict jurisdiction pursuant to Article V, Section 3(b), Fla. Const. (1980) and Fla.R.App.P. 9.030(a)(2)(A)(IV), in which provides that the discretionary jurisdiction of the Supreme Court may be sought to review a decision of district court of appeal which expressly and directly conflicts with a decision of another district court of appeal or of the Supreme court on the same question of law. While acknowledging that conflict does exist between the opinion below and Amaya v. State, 580 So.2d 885 (Fla. 2d DCA 1991), Respondent respectfully requests this Honorable Court decline to take jurisdiction in this case as the opinion of the Fourth District Court of Appeal was correctly decided.

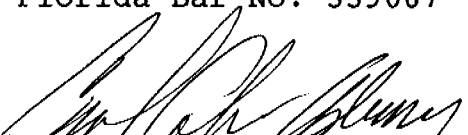
CONCLUSION

Wherefore, based upon the foregoing argument and authorities cited therein, Respondent respectfully requests this Honorable Court decline to accept discretionary jurisdiction in the instant case.

Respectfully submitted,

ROBERT A. BUTTERWORTH
Attorney General
Tallahassee, Florida

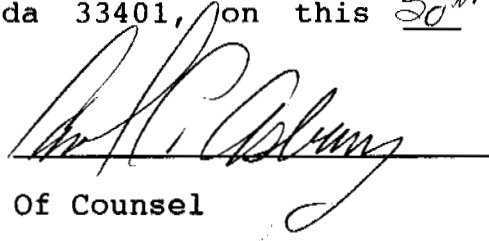

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing Answer Brief has been furnished by Courier to: ELLEN MORRIS, Assistant Public Defender, Criminal Justice Building, 421 3rd Street, West Palm Beach, Florida 33401, on this 30th day of August, 1992.


Of Counsel

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