

IN THE SUPREME COURT OF FLORIDA

DONALD SYKES,

Petitioner,

Case No. SC09-629

v.

STATE OF FLORIDA,

Respondent.

JURISDICTIONAL BRIEF OF RESPONDENT

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PRELIMINARY STATEMENT

Respondent, the State of Florida, the Appellee in the District Court of Appeal (DCA) and the prosecuting authority in the trial court, will be referenced in this brief as Respondent, the prosecution, or the State. Petitioner, Willie Watson, the Appellant in the DCA and the defendant in the trial court, will be referenced in this brief as Petitioner or proper name.

"PJB" will designate Petitioner's Jurisdictional Brief. That symbol is followed by the appropriate page number.

A bold typeface will be used to add emphasis. Italics appeared in original quotations, unless otherwise indicated.

STATEMENT OF THE CASE AND FACTS

On March 3, 2009, the First District Court of Appeal the following decision:

Donald L. Sykes petitions this court for a writ of habeas corpus, complaining that Assistant Attorneys General who represent the state in other cases involving Sykes before this court are committing fraud and lying to this court in their motions. On December 18, 2008, this court issued the following order:

Upon review, the records of this court reflect that Donald L. Sykes has filed 21 appeals or petitions in this court since the affirmance of his judgment and sentence in *Sykes v. State*, 898 So.2d 943 (Fla. 1st DCA 2005). It appears that Sykes' pro se activities in the Florida District Court of Appeal, First District, have substantially

interfered with the orderly process of judicial administration. Petitioner shall therefore show cause within 15 days of the date of this order why he should not be henceforth prohibited from filing any document in this court on his own behalf, in this or any other case, as either appellant or petitioner. See *Attwood v. Eighth Circuit*, 667 So.2d 356 (Fla. 1st DCA 1995); *Lee v. Fla. Dep't of Corr.*, 873 So.2d 489 (Fla. 1st DCA 2004).

Having now considered petitioner's response to that order, we find that the imposition of such a sanction is appropriate. It is hereby ordered that Donald L. Sykes shall secure the filing of a notice of appearance by a member in good standing of The Florida Bar in any active case now pending before this court in which he appears as appellant or petitioner within 10 days of the date of this order, failing which such cases shall be subject to dismissal. Further, the clerk of this court is directed to accept no further filings from Sykes: if received, they shall be returned to him without filing and with a reference to this order.

We also find this habeas corpus petition to be completely without merit and it is therefore denied.

PETITION FOR WRIT OF HABEAS CORPUS DENIED ON THE MERITS; SANCTION IMPOSED.

Sykes v. State, 34 Fla. L. Weekly D472 (Fla. 1st DCA 2009)

SUMMARY OF ARGUMENT

In the case at bar, the First District Court of Appeals issued an opinion denying petitioner's claim and prohibiting petitioner from filing any other pro se pleading. Petitioner appeals to this Court, but fails to allege any grounds for jurisdiction. Because the First District's decision does not conflict with any decision from this Court or any other District Court, this case must be dismissed this case for lack of jurisdiction.

ARGUMENT

ISSUE I

WHETHER THE FIRST DISTRICT'S DECISION EXPRESSLY AND DIRECTLY CONFLICTS WITH ANY DECISION OF THIS COURT OR ANY ANOTHER DISTRICT COURT OF APPEAL? (Restated)

Petitioner does not allege any grounds for this Court's jurisdiction. Petitioner's only ground to invoke this Court's jurisdiction would be pursuant to Fla. R. App. P. 9.030(a)(2)(A)(iv), which parallels Article V, § 3(b)(3), Fla. Const. The constitution provides: The supreme court ... [m]ay review any decision of a district court of appeal ... 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.

The conflict between decisions "must be express and direct" and "must appear within the four corners of the majority decision." Reaves v. State, 485 So.2d 829, 830 (Fla. 1986). Accord Dept. of Health and Rehabilitative Services v. Nat'l Adoption Counseling Service, Inc., 498 So.2d 888, 889 (Fla. 1986) (rejected "inherent" or "implied" conflict; dismissed petition). Neither the record, nor a concurring opinion, nor a dissenting opinion can be used to establish jurisdiction. Reaves, supra; Jenkins v. State, 385 So.2d 1356, 1359 (Fla.

1980) ("regardless of whether they are accompanied by a dissenting or concurring opinion"). Thus, conflict cannot be based upon "unelaborated per curiam denials of relief," Stallworth v. Moore, 827 So.2d 974 (Fla. 2002).

In addition, it is the "conflict of decisions, not conflict of opinions or reasons that supplies jurisdiction for review by certiorari." Jenkins, 385 So. 2d at 1359.

In Ansin v. Thurston, 101 So. 2d 808, 810 (Fla. 1958), this Court explained:

It was never intended that the district courts of appeal should be intermediate courts. The revision and modernization of the Florida judicial system at the appellate level was prompted by the great volume of cases reaching the Supreme Court and the consequent delay in the administration of justice. The new article embodies throughout its terms the idea of a Supreme Court which functions as a supervisory body in the judicial system for the State, exercising appellate power in certain specified areas essential to the settlement of issues of public importance and the preservation of uniformity of principle and practice, with review by the district courts in most instances being final and absolute.

In the case at bar, petitioner has alleged no conflict and there is no expressed and direct conflict. Therefore, this Court must dismiss this case for lack of jurisdiction.

CONCLUSION

Based on the foregoing reason, the State respectfully requests this Honorable Court decline to exercise jurisdiction.

SIGNATURE OF ATTORNEY AND CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to Donald Sykes, DOC # 38164, Hamilton Correctional Institution, Annex, 11419 S.W. County Road #249, Jasper, Florida 32052-3765, by MAIL on \_\_22rd\_\_ day of May, 2009.

Respectfully submitted and served,

BILL MCCOLLUM  
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[AGO# L9-1-11175]

CERTIFICATE OF COMPLIANCE

I certify that this brief complies with the font requirements of Fla. R. App. P. 9.210.

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Trisha Meggs Pate  
Attorney for State of Florida

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APPENDIX

Sykes v. State, 34 Fla. L. Weekly D472 (Fla. 1st DCA 2009)