

IN THE SUPREME COURT OF FLORIDA

JAMES EARL JACKSON,  
Petitioner,

vs.

STATE OF FLORIDA,  
Respondent.

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FILED  
THOMAS D. HALL  
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CASE NO.: SC10-1348  
L.T. CASE NO.: 5D09-1380  
08-2913-CF

PETITIONER'S JURISDICTIONAL BRIEF

ON REVIEW FROM THE DISTRICT COURT OF APPEAL  
FIFTH DISTRICT  
STATE OF FLORIDA

JAMES EARL JACKSON  
Petitioner, proper person  
Fla. DOC # 634691  
Okeechobee Correctional Institution  
3420 N.E. 168<sup>th</sup> Street  
Okeechobee, Florida 34972-4824

PROVIDED TO  
OKEECHOBEE CORRECTIONAL  
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## SUMMARY OF THE ARGUMENT

In the case, the district court erred where it concluded that irrespective of whether Courtney Wilson "actually saw Evans enter the car or not..." the deputies had "reasonable suspicion" or "belief" that Evans was in "a particular car that was leaving the area hurriedly." The deputies had been advised to stop the car by a Mr. Courtney Wilson (a bondsman) who was familiar with Evans and had agreed to "set up surveillance" to watch a particular house that the deputies believed "might" be the house where Evans has been residing, based on the information "supplied by both an anonymous tip and Mr. Wilson."

The district court's conclusion of "reasonable suspicion" cannot be reconciled with the previous decision of the 2<sup>nd</sup> District in Tinsly.

Where the court concluded that "...informants tips coupled with...vehicular activity and other observations may support the issuance of a warrant for authorizing search of the residence. These circumstances do not constitute founded suspicion to stop even vehicle whose occupants enter the residence for a brief period."

The circumstance of the instant case are analogues with those in Tinson. As such, the district court's holdings in the instant case expressly and directly conflicts with the Second District's previous decision in Tinson.

## **JURISDICTIONAL STATEMENT**

The Florida Supreme Court has discretionary jurisdiction to review a decision of a district of appeal that expressly and directly conflicts with a decision of the Supreme Court or another district court of appeal on the same point of law, Article V, Sec. 3, (b) Fla. Const. (1986), Fla.R.App.P. 9.030(a)(2)(4)(iv).

## ARGUMENT

THE DECISION OF THE FIFTH DISTRICT COURT OF APPEAL IN THIS CASE EXPRESSLY AND DIRECTLY CONFLICTS WITH THE SECOND DISTRICT COURT IN TINSON V. STATE, 650 So.2d 189 (Fla. 2<sup>nd</sup> DCA 1995).

In the decision of the district court in Jackson v. State, 35 Fla.L.Weekly D985 (Fla. 5<sup>th</sup> DCA April 30, 2010), the Fifth District Court concluded that, "reasonable suspicion" did support he stop, based on findings made in the trial courts' written order, which reflect that while Courtney Wilson might have seen Donald Evans at the house earlier in the day, he did not see him at home while he conducted surveillance. Wilson merely observed a small red sedan stop at the house where Evans was believed to be staying. There was no evidence Evans was in the sedan as it approached the home, and although he observed people congregated around the sedan, Wilson "could not tell if anyone got in the vehicle but did see the vehicle move from residence at a high rate of speed." Based upon this scant amount of information, Wilson communicated with waiting deputies to stop the sedan.

The trial court relies upon the fact that law enforcement had received an anonymous tip that placed Evans in the area; he had recently eluded the deputies, has outstanding warrants, and a car was seen leaving the house at a high rate of speed. (No traffic violation was asserted as a basis for the stop). The majority

believed that this was sufficient to justify the stop of the vehicle (see Appendix-A).

In the case at bar, the house was not Evans' known or listed address. Evans was not set at the house prior to the car pulling up and stopping. There were no distinguishing characteristics of the car that associated it with Evans. Neither Evans, nor anyone matching his description was seen entering or exiting the car. In fact, the deputies had no information regarding the driver or passengers in the car. The lack of any information corroborated the anonymous tip; facts linking Evans with the house or car, or observations of criminal activity distinguishes this case from Lopez v. State, 923 So.2d 584 (Fla. 5<sup>th</sup> DCA), which the court below heavily relies on its analysis of this case. At best, the deputies stopped the car based on an unsubstantiated hunch, similar to the officers in Tinson.

Consequently, this court should re-affirm the holding of Tinson by accepting discretionary review and quashing the contrary decision of the district court below.

### **CONCLUSION**

This court has discretionary jurisdiction to review the decision below, and the court should exercise that jurisdiction to consider the merits of the Petitioner's arguments.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I handed this document to staff at Okeechobee Correctional Institution for mailing to the Office of the Attorney General, Daytona Beach, Florida, to the Clerk of the Courts, Florida to Supreme Court, by mail this 25<sup>th</sup> day of August, 2010.

Respectfully submitted,

James Earl Jackson  
James Earl Jackson, DC# 634691  
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3420 N.E. 168<sup>th</sup> Street  
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**CERTIFICATE OF COMPLIANCE**

I CERTIFY that this document was typed in Times New Roman, size 14 font.

James Earl Jackson  
James Earl Jackson