

IN THE SUPREME COURT OF FLORIDA

MICHAEL CAMPBELL,

Petitioner,

v.

Case No. SC12-28

STATE OF FLORIDA,

Respondent.

ON PETITION FOR REVIEW FROM  
THE SECOND DISTRICT COURT OF APPEAL  
STATE OF FLORIDA

**ANSWER BRIEF ON JURISDICTION**

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**TABLE OF CONTENTS**

	PAGE NO.
TABLE OF CITATIONS .....	ii
STATEMENT OF THE CASE AND FACTS .....	1
SUMMARY OF THE ARGUMENT .....	1
ARGUMENT .....	2
ISSUES I .....	2
WHETHER THE SECOND DISTRICT'S OPINION IS IN DIRECT CONFLICT WITH THE FIRST DISTRICT COURT OF APPEAL IN <u>COX v. STATE</u> , 35 SO. 3D 47 (FLA. 1ST DCA), <u>REV. DENIED</u> , 37 SO. 3D 849 (FLA. 2010)?	
CONCLUSION .....	4
CERTIFICATE OF SERVICE .....	4
CERTIFICATE OF FONT COMPLIANCE .....	4

**TABLE OF CITATIONS**

Cases

The Florida Star v. B.J.F.,  
530 So. 2d 286, 288 (Fla. 1988)..... 3

Cox v. State,  
35 So. 3d 47 (Fla. 1st DCA 2010)..... 2, 3

Cox v. State,  
37 So. 3d 849 (Fla. 2010)..... 3

Harrel v. State,  
894 So. 2d 935 (Fla. 2005)..... 3

Jenkins v. State,  
385 So. 2d 1356 (Fla. 1980)..... 2

Statutes

Fla. Const. Art. V, § 3(b)(3) ..... 2

Rules

Fla. R. App. P. 9.210(a)(2) ..... 4

Fla. R. App. Pro. 9.030(a)(2)(A)(iv) (1999) ..... 1

## STATEMENT OF THE CASE AND FACTS

The facts as set forth by the Second District Court of Appeal in its opinion:

On November 30, 1999, pursuant to a plea of nolo contendere, Mr. Campbell was convicted of the following charges: four counts of attempted sexual battery by an adult, victim less than twelve; one count of lewd and lascivious conduct, victim less than sixteen; and one count of sexual battery by a person in familial or custodial authority. On February 11, 2000, Mr. Campbell was sentenced to a total of forty-five years' imprisonment for the above offenses. On January 24, 2011, Mr. Campbell filed his motion to withdraw plea pursuant to rule 3.172(g). In his motion, Mr. Campbell argued that he was entitled to withdraw his plea even after he was sentenced, without a showing of any justification, simply because the trial court failed to formally accept his plea during the plea colloquy.

## SUMMARY OF THE ARGUMENT

Respondent acknowledges that this Court has discretionary jurisdiction to review the decision of the Second District Court of Appeal in the instant case pursuant to Fla. R. App. Pro. 9.030(a)(2)(A)(iv)(1999) because the decision expressly and directly conflicts with the decision of another district court.

## ARGUMENT

### ISSUES I

WHETHER THE SECOND DISTRICT'S OPINION IS IN DIRECT CONFLICT WITH THE FIRST DISTRICT COURT OF APPEAL IN COX v. STATE, 35 SO. 3D 47 (FLA. 1ST DCA), REV. DENIED, 37 SO. 3D 849 (FLA. 2010)?

The jurisdiction of this Court is limited to a narrow class of cases enumerated in the Florida Constitution. This Court can exercise its jurisdiction where a district court's opinion "expressly and directly conflicts with the decision of another district court of appeal, or with the supreme court on the same issue of law." Fla. Const. Art. V, § 3(b)(3).

The rationale for limiting this Court's jurisdiction is the recognition that district courts "are courts primarily of final appellate jurisdiction and to allow such courts to become intermediate courts of appeal would result in a condition far more detrimental to the general welfare and the speedy and efficient administration of justice than that which the system was designed to remedy." Jenkins v. State, 385 So. 2d 1356, 1358 (Fla. 1980).

As this Court explained in The Florida Star v. B.J.F., 530 So. 2d 286, 288 (Fla. 1988), the state constitution creates two separate concepts regarding this Court's discretionary review. The first concept is the broad general grant of subject-matter jurisdiction. The second more limited concept is a constitutional command as to how this Court may exercise its discretion in

accepting jurisdiction. B.J.F., 530 So. 2d at 288.

The Respondent acknowledges that the Second District is in conflict with the opinion from the First District Court of Appeal in Cox v. State, 35 So. 3d 47 (Fla. 1st DCA 2010). The Second District disagreed with the First District's interpretation of Harrel v. State, 894 So. 2d 935 (Fla. 2005) and held that rule 3.172(g) only applies before sentencing. This issue was before this Court in Cox, but this Court declined to exercise its jurisdiction on a certified question of great public importance. Cox v. State, 37 So. 3d 849 (Fla. 2010). While the Respondent recognizes that this Court has discretionary jurisdiction over Petitioner's case, this Court had the opportunity previously to decide this issue and chose not to exercise its discretionary jurisdiction.

**CONCLUSION**

Respondent acknowledges that this Court has discretionary jurisdiction to review this case.

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. mail to Michael Campbell, Inmate No. S07231, Cross City Correctional Institution, 568 N.E. 255th Street, Cross City, Florida 32628, this 24th day of January, 2012.

**CERTIFICATE OF FONT COMPLIANCE**

I HEREBY CERTIFY that the size and style of type used in this brief is 12-point Courier New, in compliance with Fla. R. App. P. 9.210(a)(2).

Respectfully submitted,

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