

IN THE SUPREME COURT OF FLORIDA

THOMAS JEFFERSON FORD,

Petitioner,

Case No. SC12-0110

v.

STATE OF FLORIDA,

Respondent.

JURISDICTIONAL BRIEF OF RESPONDENT

PAMELA JO BONDI
ATTORNEY GENERAL

TRISHA MEGGS PATE
TALLAHASSEE BUREAU CHIEF
CRIMINAL APPEALS
FLORIDA BAR NO. 045489

BRYAN JORDAN
ASSISTANT ATTORNEY GENERAL
FLORIDA BAR NO. 0194603

OFFICE OF THE ATTORNEY GENERAL
PL-01, THE CAPITOL
TALLAHASSEE, FL 32399-1050
(850) 414-3300
(850) 922-6674 (FAX)

COUNSEL FOR RESPONDENT

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PRELIMINARY STATEMENT

Respondent, 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, Thomas Jefferson Ford, 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. Each symbol will be followed by any appropriate page number.

STATEMENT OF THE CASE AND FACTS

On December 21, 2011, the First District Court of Appeal issued a *per curiam* opinion affirming Petitioner's judgment and sentence, citing Flagg v. State, 74 So.3d 138 (Fla. 1st DCA 2011). See Ford v. State, 75 So. 3d 875 (Fla. 1st DCA 2011).

SUMMARY OF ARGUMENT

Affirming Petitioner's judgment and sentence *per curiam* without opinion, the First District Court of Appeal cited as controlling authority Flagg v. State, 74 So.3d 138 (Fla. 1st DCA 2011), which is pending in this Court. Proceedings in Flagg are stayed in this Court pending disposition of State v. Adkins, 71 So.3d 117 (Fla. 2011). Therefore, this Court has jurisdiction.

ARGUMENT

ISSUE

WHETHER THIS COURT HAS JURISDICTION TO
REVIEW THE FIRST DISTRICT'S DECISION
IN FORD V. STATE, 75 So. 3d 875 (Fla.
1st DCA 2011). (Restated)

The First District Court of Appeal issued a *per curiam* affirmation in this case citing Flagg v. State, 74 So. 3d 138 (Fla. 1st DCA 2011). This Court, in Jollie v. State, 405 So. 2d 418 (Fla. 1981), stated that:

We thus conclude that a district court of appeal *per curiam* opinion which cites as controlling authority a decision that is either pending review or has been reversed by this Court continues to constitute *prima facie* express conflict and allows this Court to exercise its jurisdiction.

Id. at 420. As noted above, Flagg is presently pending in this Court. Therefore, this Court has jurisdiction to review this case.

CONCLUSION

Based on the forgoing, this Court has jurisdiction.

SIGNATURE OF ATTORNEY AND CERTIFICATE OF SERVICE

I certify that a copy of the foregoing has been furnished by electronic mail to Glenna Joyce Reeves, Esq., Assistant Public Defender, Leon County Courthouse, at joyce.reeves@flpd2.com, this 15th day of February, 2012.

Respectfully submitted and served,

PAMELA JO BONDI
ATTORNEY GENERAL

TRISHA MEGGS PATE
Tallahassee Bureau Chief,
Criminal Appeals
Florida Bar No. 045489

BRYAN JORDAN
Assistant Attorney General
Florida Bar No. 0194603
Bryan.jordan@myfloridalegal.com

Attorneys for State of Florida
Office of the Attorney General
PL-01, The Capitol
Tallahassee, FL 32399-1050
(850) 414-3300
(850) 922-6674 (Fax)
(L12-1-3288)

CERTIFICATE OF COMPLIANCE

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

Bryan Jordan

Attorney for State of Florida
IN THE SUPREME COURT OF FLORIDA

THOMAS JEFFERSON FORD,

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Case No. SC12-0110

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_____ /

APPENDIX

Ford v. State, 75 So. 3d 875 (Fla. 1st DCA 2011)