

IN THE SUPREME COURT OF FLORIDA

TARAN RICKY LENHARDT,

Petitioner,

v.

CASE NO. SC12-162

L.T. No. 1D11-0152

STATE OF FLORIDA,

Respondent

ON PETITION FOR DISCRETIONARY REVIEW  
OF A DECISION OF THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT OF FLORIDA

PETITIONER'S BRIEF ON JURISDICTION

NANCY A. DANIELS  
PUBLIC DEFENDER  
SECOND JUDICIAL CIRCUIT

GLENNA JOYCE REEVES  
ASSISTANT PUBLIC DEFENDER  
LEON COUNTY COURTHOUSE SUITE  
401  
301 SOUTH MONROE STREET  
TALLAHASSEE, FLORIDA 32301  
(850) 606-1000

ATTORNEY FOR APPELLANT  
FLA. BAR NO. 0231061

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\_\_\_\_\_ /

**PETITIONERS BRIEF ON JURISDICTION**

**I. PRELIMINARY STATEMENT**

Taran Ricky Lenhardt was the defendant in the trial court and the appellant before the First District Court of Appeal. He will be referred to herein by name.

The opinion of the First District Court is Lenhardt v. State, So. 3d \_ (Fla. 1<sup>st</sup> DCA January 11,2012), and is attached as an appendix to this brief.

## II. STATEMENT OF THE CASE AND FACTS

Lenhardt challenged his drug possession conviction as being unconstitutional. The First District rejected this claim expressly citing Flagg v. State, 74 So.3d 138 (Fla. 1<sup>st</sup> DCA 2011).

### III. SUMMARY OF THE ARGUMENT

This Court has discretionary jurisdiction to review decisions of the district court which cite as controlling authority a decision that is pending review in the Supreme Court. Jollie v. State, 405 So.2d 418 (Fla. 1981). The decision in Flaaa v. State, infra, cited by the First District in their per curiam affirmed decision, is presently pending in this Court. Flaaa v. State, SC11-2282 (proceedings stayed pending disposition of State v. Adkins, Case No. SC11-1878). Since Flagg is pending before this Court, this court has jurisdiction to review the present case.

#### IV. ARGUMENT

**ISSUE PRESENTED:**

**THIS COURT SHOULD ACCEPT JURISDICTION BECAUSE THE DECISION OF THE FIRST DISTRICT COURT OF APPEAL IN LENHARDT V. STATE. \_\_\_\_ SO. 3D \_\_\_\_ (FLA. 1<sup>ST</sup> DCA JANUARY 11, 2012) CITES AS AUTHORITY A DECISION PENDING BEFORE THIS COURT.**

The District Court, in affirming Lendradt's conviction, cited Flaaa v. State, 74 So.3d 138 (Fla. 1<sup>st</sup>- DCA 2011). The decision in Flaaa is presently pending in this Court. Flaaa v. State, SC11-2282 (proceedings stayed pending disposition of State v. Adkins, Case No. SC11-1878).

Pursuant to Jollie v. State, 405 So.2d 418 (Fla. 1981), this Court has jurisdiction to exercise its discretion when a district court's per curiam opinion cites as authority a decision that is pending review in this Court. Since Flaaa is currently before this Court, the court should accept jurisdiction in this case as well.

## V. CONCLUSION

Based on the foregoing argument and supporting authority, this Court should exercise its discretion and accept jurisdiction to review the decision of the First District which expressly cites as controlling authority a decision that is presently pending before this court.



**CERTIFICATE OF SERVICE**


I HEREBY CERTIFY that a copy of the foregoing has been furnished by electronic mail to Giselle Lylen, Assistant Attorney General, Appeals Division, The Capitol, PL-01, Tallahassee, FL, 32399-1050, at [Criminalappealsintake@myfloridalegal.com](mailto:Criminalappealsintake@myfloridalegal.com) as agreed by the parties, and by U.S. mail to Petitioner, Taran Lenhardt, #132100, Madison C.I., 382 M.C.I. Way, Madison, FL 32340, on this 31st day of January, 2012.

**CERTIFICATE OF COMPLIANCE**

I hereby certify that this brief has been prepared using Courier New 12 point font in compliance with the font requirements of Florida Rule of Appellate Procedure 9.210(a) (2) .

Respectfully submitted,

NANCY A. DANIELS  
PUBLIC DEFENDER  
SECOND JUDICIAL CIRCUIT

  
*UKIS^LO.*

'GLENNA JOYCE "SEEvSs  
Assistant Public Defender  
Florida Bar No. 0231061 Leon  
Co. Courthouse, #401 301  
South Monroe Street  
Tallahassee, Florida 32301  
[Joyce.Reeves@flpd2.com](mailto:Joyce.Reeves@flpd2.com)  
(850) 606-1000

ATTORNEY FOR PETITIONER

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APPENDIX TO

PETITIONER'S BRIEF ON JURISDICTION

Lenhardt v. State, \_\_ So.3d \_\_  
(Fla. 1<sup>st</sup> DCA January 11, 2012)

IN THE DISTRICT COURT OF APPEAL  
FIRST DISTRICT, STATE OF FLORIDA

TARAN RICKY LENHARDT,

Appellant,

v.

STATE OF FLORIDA,

Appellee.

NOT FINAL UNTIL TIME EXPIRES TO  
FILE MOTION FOR REHEARING AND  
DISPOSITION THEREOF IF FILED

CASE NO. 1D11-0152

\_\_\_\_\_ /

Opinion filed January 11, 2012.

An appeal from the Circuit Court for Duval County.  
Charles W. Arnold, Judge.

Nancy A. Daniels, Public Defender, and Glenna Joyce Reeves, Assistant Public  
Defender, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, and Charmaine M. Millsaps, Assistant  
Attorney General, Tallahassee, for Appellee.

PER CURIAM.

AFFIRMED. Flagg v. State, \_\_\_ So. 3d \_\_\_ , 36 Fla. L. Weekly D2276 (Fla.  
1st DCA October 13, 2011).

VAN NORTWICK, THOMAS, and ROWE, JJ., CONCUR.