

IN THE SUPREME COURT OF FLORIDA

WILLIAM DOUGLAS FREEMAN,

Petitioner,

v.

Case No. SC12-446

STATE OF FLORIDA,

Respondent.

_____/

RESPONDENT'S JURISDICTIONAL BRIEF

On Review from the District Court of Appeal
of the State of Florida
Fifth District

PAMELA JO BONDI
ATTORNEY GENERAL

REBECCA ROARK WALL
ASSISTANT ATTORNEY GENERAL
Fla. Bar #618586
444 Seabreeze Blvd., 5th Floor
Daytona Beach, FL 32118
(386) 238-4990
FAX (386) 238-4997

COUNSEL FOR RESPONDENT

TABLE OF CONTENTS

TABLE OF AUTHORITIES	ii
SUMMARY OF ARGUMENT	1
ARGUMENT	2

ISSUE PRESENTED

PETITIONER FAILS TO SHOW ANY BASIS FOR THIS COURT TO TAKE JURISDICTION IN THIS CASE	2
CONCLUSION	5
CERTIFICATE OF SERVICE	5
CERTIFICATE OF COMPLIANCE	5

TABLE OF AUTHORITIES

CASES:

<i>Beaty v. State</i> , 701 So. 2d 856 (Fla. 1997)	4
<i>Erns v. State</i> , 676 So. 2d 1366 (Fla. 1996)	4
<i>Hinkins v. State</i> , 385 So. 2d 1356 (Fla. 1980)	3
<i>Jollie v. State</i> , 405 So. 2d 418 (Fla. 1981)	4
<i>aboard Air Line R.R. v. Branham</i> , 104 So. 2d 356 (Fla. 1958)	4

OTHER AUTHORITIES:

Art. V, §3(b), Fla. Const. (1991)	2, 3
Fla.R.App.P. 9.030(a)	2
Fla.R.App.P. 9.030(a)(2)(A)	1, 2, 4

SUMMARY OF ARGUMENT

Petitioner fails to show any basis for this Court to take jurisdiction in this case. The order which forms the basis for Petitioner's request for review consists of a summary affirmance by the Fifth District Court of Appeal of the trial court's order denying a petition for writ of habeas corpus. Such an order does not provide any basis for this Court's discretionary jurisdiction under Fla.R.App.P. 9.030(a)(2)(A).

ARGUMENT

ISSUE PRESENTED

PETITIONER FAILS TO SHOW ANY BASIS
FOR THIS COURT TO TAKE
JURISDICTION IN THIS CASE.

The order which forms the basis for Petitioner's request for review consists of a summary affirmance by the Fifth District Court of Appeal of the trial court's order denying a petition for writ of habeas corpus. Such an order does not provide any basis for this Court's discretionary jurisdiction under Fla.R.App.P. 9.030(a)(2)(A).

This court's jurisdiction is defined by Article V of the Florida Constitution (1991). Article V, §3(b) expressly sets out this court's jurisdiction, describing every situation in which this court has or may take jurisdiction. Art. V, §3(b), Fla. Const. (1991). That jurisdiction is also set out in Fla.R.App.P. 9.030(a).

In 1980, Article V was amended to limit the Florida Supreme Court's discretionary jurisdiction in cases involving conflict. Rule 9.030 was likewise revised to incorporate the constitutional amendment. The Committee Notes to Rule 9.030, in

discussing the

1980 amendment make it clear that the amendment was intended to reduce the "burgeoning caseload" that the Court handles.

The Committee Note, referring to conflict cases, states that "[t]hese cases comprised the overwhelming bulk of the court's caseload and gave rise to an intricate body of case law interpreting the requirements for discretionary conflict review." For this reason, Article V and Rule 9.030 were amended to require a showing of an "express" as well as a "direct" conflict in order to invoke jurisdiction.

This court, long ago, very clearly delineated the limitation on its jurisdiction which was narrowed by the 1980 constitutional amendment. In *Jenkins v. State*, 385 So.2d 1356 (Fla. 1980), this Court stated:

The pertinent language of section 3(b)(3), as amended April 1, 1980, leaves no room for doubt. This Court may only review a decision of a district court of appeal that **expressly** and directly conflicts with a decision of another district court of appeal or the Supreme Court on the same question of law. The dictionary definitions of the term "express" include: "to represent in words"; "to give expression to." "Expressly" is defined; "in an

express manner." *Webster's Third
New International Dictionary*,
(1961 ed. unabridged).

(emphasis in original) *Id.* at 1359 This court further added that
"[i]t is conflict of **decisions**, not conflict of **opinions** or
reasons that supplies jurisdiction for review by certiorari."
(emphasis in original) *Id.*

This Court has made it clear on numerous occasions that the
Court must look within the "four corners" of the District
Court's opinion to see whether probable conflict exists. *Beaty
v. State*, 701 So. 2d 856 (Fla. 1997); *Burns v. State*, 676 So. 2d
1366 (Fla. 1996); *Seaboard Air Line R.R. v. Branham*, 104 So. 2d
356 (Fla. 1958). Furthermore, "there can be no actual conflict
discernible in an opinion containing only a citation to other
case law unless one of the cases cited as controlling authority
is pending before this Court, or has been reversed on appeal or
review, or receded from by this Court, or unless the citation
explicitly notes a contrary holding of another district court or
of this Court." *Beaty* at 857; see *Jollie v. State*, 405 So. 2d
418 (Fla. 1981).

In the instant case, the "four corners" of the Fifth
District Court's order contains nothing more than a summary
affirmance of the trial court's denial of the petition for writ

of habeas corpus. Petitioner does not even try to invoke this Court's jurisdiction by pointing to any of the six circumstances listed under Rule 9.030(a)(2)(A). Nor does he identify any other basis for this Court to take jurisdiction. Therefore, this Court should deny jurisdiction over this matter.

CONCLUSION

Based on the arguments and authorities presented herein,
Respondent respectfully asks this honorable Court to deny
jurisdiction in this matter.

Respectfully submitted,

PAMELA JO BONDI
ATTORNEY GENERAL

REBECCA ROARK WALL
ASSISTANT ATTORNEY GENERAL
Fla. Bar #618586

WESLEY HEIDT
ASSISTANT ATTORNEY GENERAL
Fla. Bar #773026
444 Seabreeze Blvd.
5th Floor
Daytona Beach, FL 32118
(904) 238-4990
FAX (904) 238-4997

COUNSEL FOR RESPONDENT

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above
and foregoing Jurisdictional Brief of Respondent has been
furnished by U.S. mail to **William Douglas Freeman**, DOC #332787,
Zephyrhills Correctional Institution, 2739 Gall Blvd.,

Zephyrhills, FL 33541-9701, this 29th day of May, 2012.

Rebecca Roark Wall
Counsel for Respondent

CERTIFICATE OF COMPLIANCE

Undersigned counsel hereby certifies that this brief is produced in COURIER NEW, 12 point font, and thereby fully complies with the font requirement of Fla.R.App.P. 9.210(a)(2).

Rebecca Roark Wall
Of Counsel

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APPENDIX

ATTORNEY GENERAL

REBECCA ROARK WALL
ASSISTANT ATTORNEY GENERAL
Fla. Bar #618586
444 Seabreeze Blvd., 5th Floor
Daytona Beach, FL 32118
(386) 238-4990
FAX (386) 238-4997

COUNSEL FOR RESPONDENT

INDEX TO APPENDIX

INSTRUMENT:

ORDER AFFIRMING LOWER COURT'S ORDER,
dated January 18, 2012 A