

IN THE SUPREME COURT, STATE OF FLORIDA

FILED  
THOMAS D. HALL  
2012 MAY 24 AM 10:12  
CLERK, SUPREME COURT  
BY

JORGE L. DOMINGUEZ,  
Petitioner,

Vs.

CASE NO: SC12-538

STATE OF FLORIDA,  
Respondent

THIS BRIEF IS TO ENVOKE THE JURISDICTION OF THE SUPREME  
COURT OF FLORIDA TO REVIEW A DECISION OF THE FOURTH  
DISTRICT COURT OF APPEALS

Jorge Dominguez, pro se

Jorge Dominguez # 410119

Reception and Medical Center

West Unit, P.O. Box 628

Lake Butler, Fla. 32054

RECEPTION AND MEDICAL CENTER

DATE 5-18-12

INMATE INITIALS JD

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## **STATEMENT OF THE CASE**

On March 16, 1999, the Petitioner plead openly to the Seventeenth Judicial Circuit, Broward County, Florida, for the charge of strong armed robbery, a second degree felony. The Petitioner signed an open plea agreement. The court sentenced the Petitioner to thirty (30) years F.S.P. as a habitual offender.

On August 9, 2010, the Petitioner filed a Motion to Correct an Illegal Sentence, *Fla. R. Crim. P.* 3.800 (a). The Petitioner claimed that his sentence is illegal because his plea was never formally accepted by the court. Petitioner cites *Cox v. State*, 35 So.3d 47 (Fla. 1<sup>st</sup> DCA 2010) to substantiate his claim. The Circuit Court denied without a hearing. The Petitioner filed a timely notice of appeal.

Petitioner argues on appeal that:

“The trial court committed reversible error in denying Motion to Correct Illegal Sentence by failing to recognize the manifest injustice exception precluding the application of collateral estoppels and res judicata principles in the present cause of action.”

The Fourth District Court of Appeal (“DCA”) affirmed with an opinion on December 21, 2011. However, the DCA did not express any reasoning as to the merit of the Petitioner’s claim on appeal. Petitioner filed a timely Motion for Rehearing. The DCA denied and a Mandate was issued on March 2, 2012.

Petitioner petitioned this Court for a Writ of Certiorari. The date indicated by the stamp from the Department of Corrections states March 9, 2012.

### **SUMMARY OF THE ARGUMENT**

Petitioner contends that the Fourth District Court of Appeal has violated the Petitioner's right to a fair and just review and ruling guaranteed under the *United States Constitution Amendment Fourteen*, and *Article 1 § 9* of The Florida Constitution.

Petitioner states that the District Court cannot set aside their duties to uphold the laws of the land under the guise of Petitioner's excessive use of his due process rights. The instant issue presents a serious public concern AND REQUIRES THE EXPRESS RESOLUTION BY THIS COURT.

### **ARGUMENT**

**SHOULD THIS COURT ACCEPT JURISDICTION TO REVIEW THE FOURTH DISTRICT COURT OF APPEALS ABANDONMENT OF THEIR DUTIES BY FAILING TO UPHOLD THE LAW IN-TURN, COMMITTING A VIOLATION OF THE PETITIONER'S RIGHT TO DUE PROCESS?**

The Petitioner states that the instant matter is one of great public importance that affects all citizens whom exercises their rights to the appellate process. The Petitioner states that he is aware that this court cannot review "unelaborated" per

curiam affirmed decisions of District Courts of Appeal ("DCA"), *Stallworth v. Moore*, 827 So.2d 974 (Fla.2002). However, if the facts of the Petitioner's issue he has set forth to be reviewed are the same as the facts of a conflict that has been settled and ruled upon in a court of appeals, but the decision in the Petitioner's case is contrary to that ruling, how then must one seek relief or clarification?

The Petitioner asserts that this is an unfair advantage for the State. The DCA is essentially free to pick and choose for whatever kind of reason, adversarial, personal, or meritorious, without any accountability just by merely stating the words *per curiam affirmed*.

### **CONCLUSION**

**WHEREFORE** the Petitioner states that he has demonstrated the upmost importance for this Honorable Court to grant discretionary review of this matter.

/s/ *Jorge Dominguez* *pro se*  
Jorge Dominguez # 410119

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**CERTIFICATE OF SERVICE**

**I HEREBY CERTIFY** that a true and correct copy of the foregoing document was sent to the bellow listed offices/agencies via hand delivery to prison officials and Fist Class U.S. Mail on this day 5-18-12.

Office of the Attorney General

Criminal Appeals Division

1515 N. Flagler, Dr., Suite 900

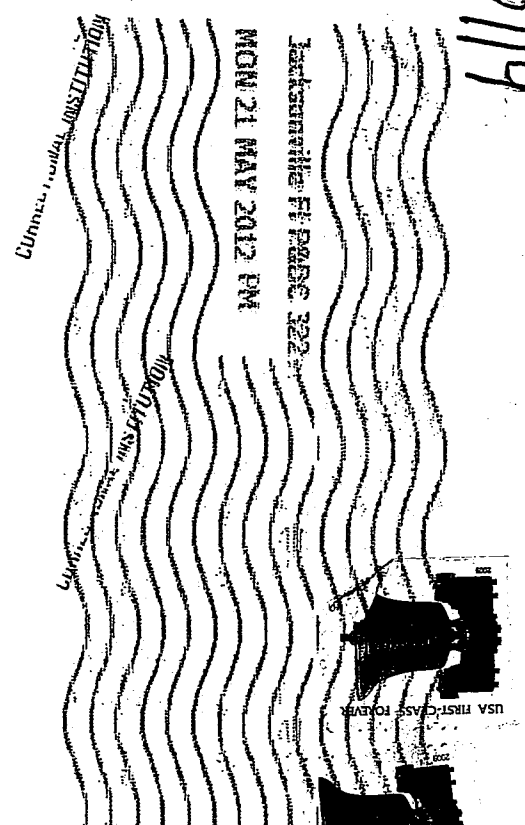
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/s/ Jorge Dominguez, *pro se*  
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NOTED MAY 23 2012  
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