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IN THE SUPREME COURT OF FLORIDA

NYDIA PEREZ,

Appellant,

v.

CASE NO. SC13-963

5th DCA No. 5D13-0863

STATE OF FLORIDA,

Appellee.

_____ /

ON DISCRETIONARY REVIEW FROM
THE FIFTH DISTRICT COURT OF APPEAL

JURISDICTION BRIEF OF RESPONDENT

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STATEMENT OF THE CASE AND FACTS

The Fifth District Court of Appeal denied Petitioner's Petition for Writ of Habeas Corpus without written opinion on April 17, 2013. There are no facts before this Court as there was no written opinion issued below.

SUMMARY OF ARGUMENT

POINT OF LAW: This Court should decline to accept jurisdiction in the instant case. The decision of the court below does not expressly and directly conflict with a decision of this Court or another district court of appeal.

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ARGUMENT

POINT OF LAW

JURISDICTION SHOULD NOT BE ACCEPTED BECAUSE THE DECISION OF THE DISTRICT COURT IN THE INSTANT CASE DOES NOT EXPRESSLY AND DIRECTLY CONFLICT WITH A DECISION OF THIS COURT OR ANOTHER DISTRICT COURT OF APPEAL.

This Court has jurisdiction to review the decision of a district court when that decision “expressly and directly conflicts” with a decision of either this Court or of another district court on the same question of law. Art. V, § 3(b)(3), Fla. Const; Fla. R. App. P. 9.030(a)(2)(A)(iv)(2005). Such conflict must be express and direct, that is, “it must appear within the four corners of the majority decision.” *Reaves v. State*, 485 So. 2d 829, 830 (Fla. 1986).

The petitioner in the instant case cannot show such a conflict. Petitioner’s Jurisdictional Brief does not allege that the decision below expressly and directly conflicts with a decision of either this Court or of another district court on the same question of law. Moreover, as the Fifth District Court of Appeal denied petitioner’s Petition for Writ of Habeas Corpus without written opinion, petitioner cannot show that a conflict appears “within the four corners of the majority decision.” *Reaves*, 485 So. 2d at 830; *See also The Florida Star v. B.J.F.*, 530 So. 2d 286, 288 n. 3 (Fla. 1988); *Jenkins v State*, 385 So. 2d 1356, 1359 (Fla. 1980).

Petitioner cannot show that the decision of the court below expressly and directly conflicts with a decision of this Court or another district court of appeal on the same question of law. Jurisdiction should not be accepted.

CONCLUSION

Based on the arguments and authorities presented herein, Respondent respectfully prays this Honorable Court does not accept jurisdiction in the instant case.

Respectfully submitted,
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing Answer Brief of Appellee has been furnished by U.S. Mail to Nydia Perez DC#X34849, Homestead Correctional Institution, 19000 S.W. 377th Street, Suite 200, Florida City, Florida, 33034, on this 7th day of June, 2013.

DESIGNATION OF E-MAIL ADDRESS

I HEREBY DESIGNATE the following e-mail addresses for purposes of service of all documents, pursuant to Rule 2.516, in this proceeding: crimappdab@myfloridalegal.com (primary) and lori.hagan@myfloridalegal.com (secondary).

CERTIFICATE OF COMPLIANCE

I HEREBY CERTIFY that the size and style of type used in this brief is 14-point Times New Roman, a font that is not proportionately spaced, in compliance with Fla. R. App. P. 9.210(a)(2).

/s/ Lori N. Hagan
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