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IN THE SUPREME COURT OF FLORIDA

STANLEY FIORANTION WILLIAMS,

Petitioner,

Case No. SC14-1197

v.

STATE OF FLORIDA,

Respondent.

\_\_\_\_\_ /

JURISDICTIONAL BRIEF OF 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, Stanley Fiorantino, 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, followed by any appropriate page number.

### STATEMENT OF THE CASE AND FACTS

According to Petitioner's Amended Initial Brief, on September 24, 2012, the State filed an affidavit alleging a violation of Petitioner's probation. The affidavit alleged violations of condition five for resisting arrest without violence, battery, and battery on a law enforcement officer, and violations of condition six for having contact with the complainant of the underlying offense. After a February 11, 2013 hearing on Petitioner's violation of probation, the trial court found Petitioner not guilty of battery, but that he otherwise violated his probation as alleged. The trial court revoked his probation and sentenced him to ten years in prison with credit for 410 days time served.

Appellate counsel apparently filed an *Anders*<sup>1</sup> Brief on direct appeal. In its May 12, 2014 opinion, the First District Court of Appeal affirmed Petitioner's judgment and sentence, but remanded for the trial court to correct the order revoking his probation. Currently on review is Petitioner's appeal of the May 12, 2014 Opinion. Williams v. State, 138 So. 3d 1102 (Fla. 1<sup>st</sup> DCA 2014).

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<sup>1</sup> Anders v. California, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).

### SUMMARY OF ARGUMENT

Petitioner's jurisdictional brief improperly relies upon facts and argument outside the "four corners" of the district court's decision. An examination of the operative facts and principles of law, as contained in the "four corners" of the DCA's decision, reveals no express and direct conflict or any other constitutional basis for this Court to exercise its jurisdiction. Therefore, jurisdiction should be declined.

ARGUMENT

ISSUE I

HAS PETITIONER SHOWN A BASIS FOR THIS COURT  
TO EXERCISE ITS DISCRETIONARY JURISDICTION?  
(Restated)

Appellate Standard of Review and Jurisdictional Criteria

The applicable standard of review for claims of direct and express conflict is *de novo* subject to the following criteria.

Petitioner contends that this Court has jurisdiction pursuant to Fla. R. App. P. 9.030(a)(2)(A)(iv), which parallels Article V, § 3(b)(3), Fla. Const. The constitution provides: The supreme court ... [m]ay review any decision of a district court of appeal ... that expressly and directly conflicts with a decision of another district court of appeal or of the supreme court on the same question of law.

The conflict between decisions "must be express and direct" and "must appear within the four corners of the majority decision." Reaves v. State, 485 So.2d 829, 830 (Fla. 1986). Accord Dept. of Health and Rehabilitative Services v. Nat'l Adoption Counseling Service, Inc., 498 So.2d 888, 889 (Fla. 1986) (rejected "inherent" or "implied" conflict; dismissed petition). Neither the record, nor a concurring opinion, nor a dissenting opinion can be used to establish jurisdiction.

Reaves, supra; Jenkins v. State, 385 So.2d 1356, 1359 (Fla. 1980) ("regardless of whether they are accompanied by a dissenting or concurring opinion"). Thus, conflict cannot be based upon "unelaborated per curiam denials of relief," Stallworth v. Moore, 827 So.2d 974 (Fla. 2002).

In addition, it is the "conflict of decisions, not conflict of opinions or reasons that supplies jurisdiction for review by certiorari." Jenkins, 385 So. 2d at 1359.

In Ansin v. Thurston, 101 So. 2d 808, 810 (Fla. 1958), this Court explained:

It was never intended that the district courts of appeal should be intermediate courts. The revision and modernization of the Florida judicial system at the appellate level was prompted by the great volume of cases reaching the Supreme Court and the consequent delay in the administration of justice. The new article embodies throughout its terms the idea of a Supreme Court which functions as a supervisory body in the judicial system for the State, exercising appellate power in certain specified areas essential to the settlement of issues of public importance and the preservation of uniformity of principle and practice, with review by the district courts in most instances being final and absolute.

In the case at bar, the First District Court of Appeal issued an opinion on Petitioner's direct appeal. Williams v. State, supra. In that opinion, the First District per curiam affirmed Petitioner's judgment and sentence but remanded for the trial court to correct the order revoking his probation. The



First District pointed out the inconsistencies in the dates cited on the trial court's order revoking Petitioner's probation, but noted that Petitioner did not need to be present for the order to be corrected. There is nothing in the First District's Opinion that conflicts with any other district cases or Florida Supreme Court cases. Because there is no expressed and direct conflict, this Court must dismiss this case for lack of jurisdiction.

CONCLUSION

There is no constitutional basis for discretionary jurisdiction. The petition should be denied.

SIGNATURE OF ATTORNEY AND CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to Stanley Fiorantino Williams, DC# 794452, Northwest Florida Reception Center, 4455 Sam Mitchell Drive, Chipley, Florida 32428, by MAIL on October 3, 2014.

Respectfully submitted and served,

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/s/ Trisha Meggs Pate

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CERTIFICATE OF COMPLIANCE

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

/s/ Jennifer J. Moore

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Attorney for State of Florida

IN THE SUPREME COURT OF FLORIDA

STANLEY FIORANTINO WILLIAMS

Petitioner,

Case No. SC14-1197

v.

STATE OF FLORIDA,

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APPENDIX

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DOCUMENT

A      Williams v. State, 138 So. 3d 1102 (Fla. 1<sup>st</sup> DCA 2014)



138 So.3d 1102, 39 Fla. L. Weekly D977  
(Cite as: 138 So.3d 1102)

District Court of Appeal of Florida,  
First District.  
Stanley Fiorantino WILLIAMS, Appellant,  
v.  
STATE of Florida, Appellee.

No. 1D13-759.  
May 12, 2014.

An appeal from the Circuit Court for Washington County. Christopher N. Patterson, Judge.

\*1103 Nancy A. Daniels, Public Defender, and Joel Arnold, Assistant Public Defender, Tallahassee, for Appellant.

Pamela Jo Bondi, Attorney General, Tallahassee, for Appellee.

#### PER CURIAM.

In this *Anders*<sup>FN1</sup> appeal, we affirm Appellant's judgment and sentence, but remand for the trial court to correct the order revoking his probation. Although the State alleged in its September 18, 2012, affidavit that Appellant violated his probation by committing one new law violation on June 19, 2012, and two new law violations on June 23, 2012, the lower court found that the evidence supported revocation based only on the June 23, 2012, violations. The revocation order provides, however, that Appellant violated the conditions of his probation as alleged in the September 18, 2012, affidavit. We, therefore, remand for the trial court to correct the revocation order. See *Nickolas v. State*, 66 So.3d 1077 (Fla. 1st DCA 2011) (affirming a judgment and sentence in an *Anders* appeal but remanding for the court to correct revocation order which erroneously based revocation on all five new law violations charged where court only found evidence supported 1 new law violation); *Washington v. State*, 37 So.3d 376 (Fla. 1st DCA 2010) (affirming a judgment and sentence in an *Anders* appeal but remanding for the court to correct a revocation order reflecting the appropriate

condition violated); *Leggs v. State*, 27 So.3d 155 (Fla. 1st DCA 2010) (affirming, in an *Anders* appeal, the appellant's judgment and sentence, but remanding with directions that the trial court enter an order specifying the conditions of probation violated). Appellant need not be present. *Nickolas*, 66 So.3d at 1077 (citing *Baldwin v. State*, 855 So.2d 1180 (Fla. 1st DCA 2003) (remanding for entry of a written revocation order conforming to the oral pronouncement in an *Anders* appeal)).

FN1. *Anders v. California*, 386 U.S. 738, 87 S.Ct. 1396, 18 L.Ed.2d 493 (1967).

AFFIRMED and REMANDED.

ROBERTS, WETHERELL, and OSTERHAUS, JJ.,  
concur.

Fla.App. 1 Dist., 2014.

Williams v. State

138 So.3d 1102, 39 Fla. L. Weekly D977

END OF DOCUMENT