IN THE SUPREME COURT OF FLORIDA

DARRYL LEWIS DAVIS,
Petitioner,

v.

CASE NO.: SC16-1738
5th DCA NO.: 5D15-2507

STATE OF FLORIDA,
Respondent.
_____/

FILED
JOHN A. TOMASINO
NOV 28 2016
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BY_____

PETITIONER'S REPLY BRIEF
ON JURISDICTION

Darryl Lewis Davis #X20295
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ISSUE ONE

THIS COURT SHOULD ACCEPT JURIDICTION OF THIS CASE AS THE RESULT CONFLICTS WITH THE DISTRICT COURT OF APPEALS DECISIONS IN STARLING V. STATE, 152 SO. 3D 868-69 (FLA. 1ST DCA 2014) AND DELEON V. STATE, 66 SO.3D 391 (Fla. 2D DCA 2011).

STANDARD OF REVIEW

This court has jurisdiction to review conflicts between district courts of appeal. See Art. V, § 3(b)(3), Fla. Const. Once the supreme court has conflict jurisdiction, it has jurisdiction to decide all issues necessary to a full and final resolution. See Hall v. State, 752 So2d 575 (Fla. 2000).

REPLY

Even accepting Respondents statement of facts there is still a conflict between the Fifth District court of Appeals decision in this case and the cases cited above. Respondent argues that there is no conflict as the appellate court below utilized those casese to afford Petiotroner relief. However, in both Starling and Deleon, the appellate court reduced the convictions to simple robbery "because jury has already acquitted [defendant] of possessing the only weapo0n", e.g. the firearm.

Here, as in *Starling* and *Deleon* the jury acquitted Petitioner of possessing the only weapon alleged, e.g. the firearm. Thus, the fifth district court of appeals reduction of Petitioners offenses to robbery with a weapon conflicts with both *Starling* and *Deleon*.

CONCLUSION

This Court should accept jurisdiction of this case as the decision rendered by the Fifth District Court of Appeal conflicts with decisions rendered by the First and Second District Court of Appeal.

Respectfully submitted,

/s/ Darryl Lewis Davis #X20295

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I placed this document in the hands of Mailroom Personnel, at Franklin Correctional Institution for mailing via U.S. mail to the Office of the Attorney General at 444 Seabreeze Blvd. suite 500, Daytona Beach, Fl. 32118 on this 23 day of November 2016.

/s/ Darryl L. Davis
Darryl Lewis Davis #X20295

CERTIFICATE OF FONT SIZE

I hereby certify that this brief has been prepared using Times Roman 14 point font in compliance with the font requirements of Florida Rule of Appellate Procedure 9.210 (a) (2).

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