

IN THE FLORIDA SUPREME COURT

STATE OF FLORIDA,

Appellant,

v.

Case No. 17-1978  
Lower Ct. Case#4D16-2675

PETER PERAZA

Appellee.

\_\_\_\_\_ /

MOTION TO RECALL AND STAY MANDATE

COMES NOW Petitioner, the State of Florida, by and through undersigned counsel, and moves this Honorable Court to recall and stay the mandate of the Fourth District Court of Appeal in this case and as grounds states:

1. This Court accepted jurisdiction in this case on February 1, 2018. On February 2, 2018 undersigned filed a motion in the Fourth District Court of Appeal seeking to recall and stay the mandate the appeal to this Court is pending. The Fourth District court of Appeal denied the motion on February 12, 2018

2. This is an appeal of an order granting a motion to dismiss. In this case, since this Court has in fact taken jurisdiction to hear the case, and could in fact reverse this cause back to the trial court, it would be in the interests of prudence and justice for mandate to be recalled and stayed

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pending resolution of the matter by this Court. See State v. Roberts, 661 So. 2d 821, 822 (Fla. 1995) ("Because there is a reasonable possibility that this Court will accept jurisdiction in this case and perhaps obviate the necessity for a new trial, we hereby grant the State's motion and direct the district court of appeal to withdraw its mandate pending consideration of the notice to invoke this Court's discretionary jurisdiction.").

WHEREFORE, Petitioner respectfully requests that this motion to recall and stay mandate be granted.

Respectfully submitted,

PAMELA JO BONDI  
ATTORNEY GENERAL  
Tallahassee, Florida

/s/ Melanie Dale Surber  
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and accurate copy of the foregoing was electronically to this Court and furnished by electronic mail to Eric Schwartzreich on February 12, 2018 to

[admin@floridalawyerdefenseteam.com](mailto:admin@floridalawyerdefenseteam.com)

and

[eschwartzreich@floridalawyerdefenseteam.com](mailto:eschwartzreich@floridalawyerdefenseteam.com)

/s/Melanie Dale Surber  
Melanie Dale Surber  
Counsel for Appellant