IN THE
SUPREME COURT OF FLORIDA

GORDON WAYNE WATTS,
Individually, and on behalf of
similarly situated Florida minorities

CASE NO.: SC04-68

DCA No.: 2D02-4061

Commission Case No.: 22-01590

Petitioner/Plaintiff/Appellant,

vs.

FLORIDA COMMISSION
ON HUMAN RELATIONS,
Respondent/Defendant/Appellee.
_____/ Be sure to include a copy of the initial brief and also a copy of the order in question.

This cause comes before This Court by command of the Order of This Court, dated, Friday, April 30, 2004, promising that reinstatement shall ensue "if jurisdiction is established on proper motion within fifteen (15) days of this order."

This motion is timely, the day of the act not being included, the last day falls upon Saturday, 15 May 2004, time shall run until the next business day, today, Monday, 17 Mat 2004. (See Fla.R.App.P. 9.420(e), Computation.) "If a party...is required or permitted to do an act...and the document is served by mail, 5 days shall be added..." (See Fla.R.App.P. 9.420(d), Add'l Time After Service by Mail.)

PROPER MOTION REGARDING JURISDICTION

After having endured racial mistreatment at the hands of the executive branch of Tallahassee city government, and after having climbed an uphill battle to persuade the cop to admit to racial mistreatment in a written report, Appellant, Gordon W. Watts made every reasonable effort to report this mistreatment --in a timely fashion to the State Agencies responsible for enforcing Florida's racial statutes --and documented such, which shall form a basis for this appeal and any subsequent motions and briefs.

On 06 January 2004, Appellant filed a timely notice of appeal of the lower tribunal's decision, which denied the most basic due process, and on that same date filed the "Initial Brief..." on the merits and a "MOTION TO ACCEPT JURISDICTION."

This Court docketed all three items on 14 January 2004, and incorrectly labeled the merit brief as a jurisdictional brief, and cited it for exceeding the page limit assigned to jurisdictional briefs. Additionally, the Court website has either mislabeled or failed to post briefs, indicating that a copy may be misplaced. An additional copy shall be provided. (Jurisdictional briefs are mandated for Discretionary Jurisdiction, but not for either Original Jurisdiction or Mandatory Appellate Jurisdiction, as argued in the motion docketed on 14 Jan 2004.) On the 26th of that month, This Court graciously found the unemployed Appellant financially insolvent and waived all court fees.

The next action by This Court, however, incorrectly made reference to the Fifth District Court of appeals, even though this appeal arises out of Florida's second appellate district, and further finds, as a finding of law, that "It appearing to the Court that the Fifth District Court of Appeals did not declare invalid a state statute of provision of the State Constitution, and that...this Court is without jurisdiction," promises reinstatement if jurisdiction can be established.

Proper Arguments:

This Court asks for arguments on mandatory appellate jurisdiction relating to declaring invalid statutes and/or sections of the state constitution.

It appearing that many such arguments were given in the "MOTION TO ACCEPT JURISDICTION," docketed on the 14th of January 2004, these arguments will not be repeated here.

However, since it appears that the items in this case may have gotten lost, misplaced, or mislabeled, based on the numerous anomalies noted, another copy of the jurisdictional brief shall be included within this motion, which shall be submitted as an "Original + 7 copies," and another copy of the short 27-page "INITIAL BRIEF OF THE APPELLANT" (with hopefully a copy on 3.5" computer diskette) shall also be included to refresh and replenish any files lost, misplaced, or mislabeled.

Summary of the Arguments:

This Court has jurisdiction of *Watts v. Fla. Comm. on Hum. Relations*, SC04-68, in the following manners:

a) Original Jurisdiction;
b) Mandatory Appellate Jurisdiction;
c) Discretionary Jurisdiction;
d) By Power of the Supremacy Clause, which mandates that This Court comply with Federal Holdings that hold various aspects of Due Process are violated in some instances when a *per curiam* affirmed decision of a lower tribunal exceeds constitutional guidelines.

a) This Court has Original Jurisdiction:

This Court has noted in *Gandy v. State, etc.*, Nos. SC02-2049, SC02-2214, & SC02-2221 (Fla. May 15, 2003) that "it is already this Court's **practice** to dismiss cases in which review is sought from an unelaborated per curiam denial of relief, like the ones at issue in the subject cases, which merely cites to a case not pending on review in this Court, or to a statute or rule of procedure." (Emphasis added)

How much more, it would seem, that dismissal is immanent in cases where the per curiam decision doesn't even cite some authority, such as a statute or case.

However, in its *Gandy* holding, This Court noted at the outset that "Petitioners James Gandy, Kimberly D. Goodwin, and Edward Dane Jeffus have filed notices to invoke our **discretionary** jurisdiction..." (Emphasis added) Since this holding does not deal specifically with Original Jurisdiction, it would appear that this is a "gray area" of law if one attempts to apply it to Original or Mandatory Appellate Jurisdiction. Thus, This Court is correct in calling it a "practice" as opposed to a firm guideline, defended by solid case law or statutory or constitutional provisions.

Furthermore, as noted in the motion docketed on the 14th of January, "the [Florida Supreme] Court's 'all writs' authority remains one of the most confusing and unsettled areas of jurisdiction, a problem worsened by the infrequency of all writs cases." (The Operation and Jurisdiction of the Florida Supreme Court, Kogan and Waters, 18 Nova L. Rev 1151, (Fla. 1994) at VII. E.)

Thus, the arguments, on pages 2-5 of the previously submitted motion regarding Original All Writs Jurisdiction (see also appendix below) are valid and should be considered.

b) This Court has Mandatory Appellate Jurisdiction:

Another area of constant confusion for the courts in Florida (and nationwide) is the inherency doctrine:

While it was codified that "The discretionary jurisdiction of the supreme court may be sought to review (A) decisions of district courts that (i) EXPRESSLY declare valid a state statute; (ii) EXPRESSLY construe a provision of the state or federal constitution;" (RULE 9.030(A)(i) and (ii), Fla.R.App.P., Emphasis added), nonetheless, this "express" declaration is not required by RULE 9.030(a)(1)(A)(ii), Fla.R.App.P., dealing with Mandatory Appellate Jurisdiction.

The great guidebook for Florida's Courts once again agrees with Appellant and Petitioner's logic:

While the "inherent invalidity" doctrine has now been abolished, pursuant to updates in the constitution, "commentators have suggested that the Florida Supreme Court might properly exercise this type of jurisdiction in the rare event that a district court has summarily affirmed a lower court's ruling expressly invalidating a statute." The Operation and Jurisdiction of the Florida Supreme Court, Kogan and Waters, 18 Nova L. Rev 1151, (Fla. 1994), at V. D., citing Arthur J. England, Jr., et al., Constitutional Jurisdiction of the Supreme Court of Florida: 1980 Reforms, 32 U. FLA. L. REV. 147, 169-70 (Fla. 1980))

Thus, the arguments which were previously submitted to This Court in the very short 12-page motion regarding Mandatory Appellate Jurisdiction (see also appendix below) are valid and should be considered. Of course, the commentators are correct: ALL the lower tribunals one-after-another declared the state statutes dealing with time limitations as invalid by pretending that they do not exist and ruling contrary to them.

The lower tribunals think that because of the complex nature of the authorities, This Court will ignore their clear error, and indeed the matter is several levels of complex:

The State Laws involved do not specifically set ALL the time guidelines, merely some of them, while providing the Florida Commission on Human Relations with the ability to clarify.

That is where the clear error appears:

The time guidelines mandating a the timeclock starts a year from the act OR when the person learns of discriminatory act allow two differing commencement periods.

All the lower tribunals, in ignoring the clear language of the Commission rules, in effect are saying that the state statutes that give them authority are null and void --invalid.

If that is not enough, Appellant made repeated contacts within the "strict" one-year time-period, initially documenting contact with the State almost immediately after the illegal discrimination took place. While there was no "time-stamp" documenting receipt by The Commission, this is not the fault of petitioner, and he should not be held accountable for this oversight.

Thus, even within the stricter guidelines, starting the time-clock at the time of the act (as opposed to the agency rules allowing an alternate commencement date), the actual state statutes quoted in the brief and the related filings in this cause were clearly not complied with --that is, declared invalid, as if to say that the lower tribunals simply did not like the State Laws involved.

I disagree.

To the extent that these laws afforded protection, that portion is constitutional, and This Court should accept jurisdiction, with the express purpose of declaring those portions of the law valid, overturn, reverse, and remand for proceedings consistent with this holding.

c) This Court has Discretionary Jurisdiction:

In This Court's "ACKNOWLEDGMENT OF NEW CASE," dated January 27, 2004, This Court graciously accepted jurisdiction with the quote that "The above notice has been treated as a Notice to Invoke Discretionary Jurisdiction."

Since this acknowledgment incorrectly cited the lower tribunal case number as "5D02-4061," even though the actual case number was "2D02-4061," originating from the Fla. 2nd DCA, it should be considered that a like clerical error by staff of This Court ignored or did not notice the "MOTION TO ACCEPT JURISDICTION," docketed on the 14th of January 2004, and, instead, supposed that Petitioner invoked Discretionary Jurisdiction.

However, it is equally likely that This Court *sua sponte*, that is, on its own motion, ordered Discretionary Jurisdiction, supposing that the district court EXPRESSLY declared valid a state statute or EXPRESSLY construed a provision of the state or federal constitution,
as proscribed by Fla.R.App.P. 9.030(A)(i) and (ii).

This case, then, would fall under the authority of the *Gandy* guidelines mentioned above.

First, it must be established: "Did the lower tribunal indeed EXPRESSLY declared valid a state statute or EXPRESSLY construed a provision of the state or federal constitution?"

The sections of the Commission rules mandating a time-stamp of receipt within the one-year periods are provisions which are clearly given their authority by the state laws.

Thus, when the lower tribunal claims that the Petitioner did not get a time-stamp and that this is in violation of this portion of the state laws, this is factually correct. (Petitioner actually did get a "time-stamp" from several agencies, in a timely fashion, as documented in the record on appeal, but was denied the "proper" time-stamp, so to speak, through no negligence on his part.)

So, to the extent that those portions of the State Law require something which is clearly unobtainable in some circumstances, two things are thus true:

(1) The District Court expressly declared this law valid by its affirmance, even if not in so many words.
(2) If the relief is unobtainable by a reasonable person, then Due Process holds this to be unconstitutional.

This Court has held in *Gandy* that "it is already this Court's practice to dismiss cases in which review is sought from an unelaborated **per curiam** denial of relief, like the ones at issue in the subject cases, which merely cites to a case not pending on review in this Court, or to a statute or rule of procedure," which would seem to imply that This Court does not have jurisdiction.

If this were the only grounds for jurisdiction, then Appellant would not have jurisdiction.

On the other hand, if *Gandy* can be found to be unconstitutional, then This Court should recede from its holding here and reverse.

Gandy, while not citing *Jenkins v. State,* 385 So 2d 1356, 1359 (Fla. 1980), nonetheless holds in the same vein: *Jenkins* proscribes jurisdiction in decisions of District Courts of Appeal, in which conflict exists between other District Courts of Appeal -or between decisions made by This Court, The Florida Supreme Court, one subsection of "Discretionary Jurisdiction." See Fla.R.App.P. 9.030(a)(2)(A)(iv)

It has long been speculated that This Court should recede from *Jenkins* and its progeny, such as *Gandy,* in the same way that The U.S. Supreme Court overturned *Betts v. Brady*, 316 U.S. 455 (1942) by its holding in *Gideon v. Wainwright*, 372 US 335 (1963). (*Betts* improperly held unconstitutional standards with respect to appointment of counsel in noncapitol cases and was rightly overturned.)

It would seem that the District Court inherently declared valid those portions apparently violated, and that the portions it inherently declared valid are unconstitutional, but since the inherency doctrine still reigns, discretionary jurisdiction cannot be obtained.

However, if this jurisdiction is indeed "discretionary," then, by the very definition, there must of necessity be "discretion" in this courts authority to say "yes" and accept a case, so this appears very unconstitutional and may be argued in later portions of this motion.

d) Supremacy Clause vs. PCA's AND Supremacy Clause vs. State Law

There exist Federal Holdings which allow review of per curiam affirmed decisions (PCA's), that is decisions rendered without a written opinion.

Thus, it is true to say that holding all PCA's as "unreviewable" would certainly be unconstitutional.

(All it takes to invalidate a rule is to find one exception, and several here will be found.)

The Supremacy Clause mandates that any state statutes or holdings which conflict must, of necessity, yield: "This Constitution, and the Laws of the United States

which shall be made in Pursuance thereof; and all Treaties made, or which shall be made, under the Authority of the United States, shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the contrary notwithstanding." Art. VI, Paragraph 2, U.S.Const.

It is well settled law that "a state statute is void to the extent that it actually conflicts with a valid federal statute" and that a conflict will be found either where compliance with both federal and state law is impossible or where the state law stands as an obstacle to the accomplishment and execution of the full purposes and objectives of Congress. *Edgar v. Mite* Corp., 457 U.S. 624, 631 (1982). Accord: *Stone v. City and County of San Francisco*, 968 F.2d 850, 862 (9th Cir. 1992), cert. denied, 113 S.Ct. 1050 (1993), which held that "otherwise valid state laws or court orders cannot stand in the way of a federal court's remedial scheme if the action is essential to enforce the scheme."

So, do Federal holdings really allow PCA review? And, if so, what are the implications?

Petitioner is preparing this motion without the assistance of any counsel, and, as such, cannot locate one particular PCA decision which he saw once in the past, dealing possibly with an interracial couple's custody or something similar. (In this case, which we will call "CASE 1 of 5," a federal court reversed The Florida Supreme Court's denial/dismissal of a case in which a DCA made a PCA decision, and possibly remanded the matter to The Florida Supreme Court or the District Court.)

However, other representative cases will be found:

CASE 2 of 5: The U.S. Supreme Court held that a PCA decision was indeed reviewable:

"The Appellate Division **affirmed without opinion**, one judge dissenting, 10 App. Div. 2d 948, 201 N. Y. S. 2d 362, and the Court of Appeals **affirmed, also without opinion,** 11 N. Y. 2d 991, 183 N. E. 2d 704. This Court granted certiorari, 371 U.S. 860, to consider the propriety of the trial judge's action...Since, in this case, petitioner's evidence, though disputed, constituted probative facts sufficient to support the finding of negligence, the state courts improperly invaded the function and province of the jury in setting the verdict aside. Rogers v. Missouri Pacific R. Co., 352 U.S. 500...The judgment of the New York Court of Appeals is

reversed and the cause is **remanded** for further proceedings not inconsistent with this opinion. It is so ordered. BASHAM v. PENNSYLVANIA R. CO., 372 U.S. 699 (1963) (Emphasis added for clarity)

A Federal Court held that a PCA decision was indeed reviewable:

CASE 3 of 5: "The Oregon Court of Appeals **affirmed without opinion**, and the Oregon Supreme Court denied review. Wilcox filed a **federal** habeas petition, **which the district court denied**. The United States Court of Appeals for the Ninth Circuit **granted** a certificate of appealability...Wilcox's second trial was barred by the Double Jeopardy Clause of the Fifth Amendment. Counsel's failure to raise the issue amounted to ineffective assistance, and Wilcox was clearly prejudiced thereby. Accordingly, the judgment of the district court is REVERSED and the case is REMANDED with instructions that the district court GRANT THE WRIT and **vacate** petitioner's conviction forthwith." RICHARD SHAWN WILCOX v. MICHAEL MCGEE, Superintendent, Columbia River Correctional Institution, Case Number: 99-35566 (U.S. Court of Appeals for the Ninth Circuit, Date Filed: 02/27/01; Argued and Submitted September 13, 2000--Portland, Oregon) (Emphasis added by boldface and underline for clarity purposes; Capitalization is as it appears in the original.)

CASE 4 of 5: The Florida Fifth District Court of Appeals found a PCA decision which could be reversed in part:

"Hamilton was sentenced to two consecutive life terms in prison, and his convictions were **affirmed without opinion** by this court. *Hamilton v. State*, 781 So. 2d 377 (Fla. 5th DCA 2001). Subsequently, Hamilton filed a motion for post conviction relief, alleging 24 claims of ineffective assistance of counsel. The trial court denied relief on all grounds. Therefore, we find that Hamilton's claim regarding counsel's failure to call certain exculpatory witnesses is not conclusively refuted by the record. Accordingly, the order denying post conviction relief is **reversed** with respect to grounds 5, 6, 10, 11, 12, 13, and 14, and the cause is remanded for an evidentiary hearing or for attachments showing that Hamilton is not entitled to relief. In all other respects, the order is affirmed. AFFIRMED in part; **REVERSED** in part, and REMANDED." Hamilton v. State, No. 5D02-2292 (Fla. 5th DCA, Opinion filed December 5, 2003) (Emphasis added for clarity)

While not legally binding, extra-State cases offer additional clarity:

CASE 5 of 5: "On the DOT's appeal of the ruling, the court of appeals **affirmed**

without opinion. *See* Iowa R. App. P. 6.24. We granted the DOT's petition for further review. For the reasons that follow, we **vacate** the court of appeals' decision, **reverse** the district court and **remand** for an order upholding the agency's order to remove the signs." **IMMACULATE CONCEPTION CORP. and DON BOSCO HIGH SCHOOL**, vs. **IOWA DEPARTMENT OF TRANSPORTATION,** No. 174 / 01-1493 (**IN THE SUPREME COURT OF IOWA**, Filed January 23, 2003) (Emphasis added for clarity)

Time does not permit the exploration of additional cases, which would, no doubt, be labeled "Cases 6-10," however the conclusion is obvious:

CONCLUSION:

In all of the cases except the last one, the precedent is legally binding. Therefore, the holdings in *Gandy* and *Jenkins* which directly and expressly prohibit any review whatsoever of PCA decisions are directly and expressly in conflict with the both State and Federal holdings which hold that review of a bad PCA decision is indeed permitted.

Furthermore, the Due Process and Equal Protection clauses of both State and Federal Constitutions are violated, as so eloquently put in the old but valid holding in McRae v. Robbins:

This Court has generally found that "[w]hen facts are to be considered and determined in administration of statutes [such as the Civil Rights laws], there must be provisions prescribed for due notice to interested parties as to time and place of hearings with appropriate opportunity to be heard in orderly procedure sufficient to afford due process and equal protection of the laws in any official action taken under the delegated authority..." (Fla. 1942 / Declaration of Rights, $$ 1, 12. *McRae v. Robbins*, 9 So.2d 284, 151 Fla. 109)

As argued in the brief on the merits, currently on file with This Court, those portions of the state law mandating a time-stamp in cases where the agencies refuse to be identified and/or refuse to produce a said proof of receipt must of necessity yield. (Actually, both cases seem to apply here, in that diligent efforts to identify and locate the proper agency that dealt with mistreatment of the racial persuasion were met with the highest level of apathy; Additionally, once the agency was located, the refusal to ensure due process continued, as expressed by a refusal to honor this agency's own rules, when it was documented that Petitioner both contacted State within the strict 1-year guideline, seeking the proper agency

--and documented that Petitioner did not learn of the fact that racial discrimination was causative until after the act, which started the alternate time-clock and met that time-limit as well. All the way from the corrupt cop to the district court, the unbroken chain of efforts was to deny all due process, but the chain of horrors must stop.)

Clearly, review is permissible. In fact, even were the denial to be with prejudice (indicating that the merits were reviewed and found to be wanting), This Court review is possible: *Morroni v Peeples*, No. 2D03-2552 (Fla. 2d DCA, April 23, 2004;) held that review of a dismissal with prejudice was permissible.

CHIEF IRONY

It is ironic that this motion is being submitted on the 50th Anniversary to BROWN v. BOARD OF EDUCATION, 347 US 483 (1954), in which the nation's Highest Court held on May 17, 1954, Chief Justice Earl Warren reading the decision of the unanimous Court, that segregation, that is, racial discrimination, was ILLEGAL.

Now, 50 years, to the day, later (May 17, 2004), are not Native American rights just as sacred to This Court? And, do the valid portions of the State's Laws and constitutional provisions still not ring true as fundamental guarantees of protection of the right of liberty and due process freedoms?

CONCLUSION: Unexplained Rulings Threaten Rule of Law

Courts should be required to give an explanation for their affirmance

It is improper for the Fla. 2nd DCA to hide behind a PCA to avoid following the law and avoid taking a stand when it apparently disagrees, and this type of abuse has long undermined confidence in the integrity of the judicial system, due not merely to the appearance of injustice, but actual injustice and abuses.

When the only law on the subject from one DCA is not followed by a sister court on an identical issue presented, problems arise. Therefore, the court has an obligation to either follow the law or explain why they may have reached a different conclusion:

"Overuse of the PCA practice masks laziness by [2nd District Court of Appeals] appellate court judges, uncritical judicial analysis, and questionable justice in the administration of the court system...when litigants [such as Watts] commit themselves to the time and expense to take an appeal, win or lose, they expect greater consideration by the appellate courts than a one sentence decision or a

citation to one or two cases that often appear inapplicable or distinguishable. Usually the losing party in the appeal feels cheated, not only by the loss but also by how the appellate court treated the appeal in a dismissive, perfunctory way. That undermines the justice system or at least the perception of the justice system...Nothing undermines public trust or professionalism more than the inability of the attorney for the appellant to explain to his or her client a PCA opinion...PCAs contribute to a lack of respect for, and acceptance of, appellate decisions. PCAs seem arbitrary and contain an element of decisions made behind closed doors. Part of the effectiveness of any court, including an appellate court, is the perception and reality of fairness. A court should explain its decision even if the explanation will not necessarily advance legal precedent.....The hollowness of PCA decisions undermines the integrity of our judicial system.....Respect for the rule of law in general, and the appellate courts of this state in particular, is diminished through the use of PCAs.....The use of PCAs in approximately 65 percent of DCA decisions harms the public's faith in the fairness of the legal system that it helps to fund through payment of taxes.....**There have been many instances where the power of the DCAs to PCA decisions has been abused with no avenue of redress available to the litigant who receives the unfavorable PCA decision. In several instances, the PCA decision was contrary to existing law.** DCA judges should be required to cite the appropriate authority when issuing a PCA." (Empress added for clarity)

(http://www.judicialaccountability.org/appeasstatecourt.htm, citing Appendix I - 1 of the Final Report and Recommendations by the Committee on Per Curiam Affirmed Decisions: http://www.flcourts.org/sct/sctdocs/library.html.)

Therefore, and based on the fullness of the arguments in the Initial Brief and the couple motions, This Court should accept review and recede from such holdings as are necessary to effect justice for the violation of Due Process, Equal Protection, and other violations contrary to State Laws on Discrimination, as well as contrary to the State and Federal holdings cited in the instant motion, which are in direct conflict with holdings such as *Jenkins* and *Gandy,* resulting in continued confusion within the court system on the issues of PCA's and whether the inherency doctrine applies to mandatory appellate jurisdiction.

This Court may *sua sponte* set oral arguments and appoint an attorney who is trying to meet *pro bono* requirements, but that is not being requested by Petitioner.

APPENDIX, incorporated and in font 12 to differentiate:

IN THE
SUPREME COURT OF FLORIDA

GORDON WAYNE WATTS,
Individually, and on behalf of
similarly situated Florida minorities

CASE NO.: SC04-UNDEFINED
Assigned to: SC04-68
Lower Tribunal No.: 2D02-4061

Lower Tribunal Case Number: 22-01590

Petitioner/Plaintiff/Appellant,

vs.

FLORIDA COMMISSION
ON HUMAN RELATIONS,
Respondent/Defendant/Appellee.
_____/

ON APPEAL FROM THE DISTRICT COURT OF APPEAL OF THE
SECOND JUDICIAL DISTRICT, IN AND FOR THE STATE OF FLORIDA

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MOTION TO ACCEPT JURISDICTION

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GORDON W. WATTS, Petitioner / Plaintiff / Appellant
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Comes now petitioner Gordon Watts under the authority of RULE 9.300 MOTIONS (a), Fla.R.App.P., and, pursuant to said rule, petitioner invokes the following standard:

"Unless otherwise prescribed by these rules, an application for...relief available under these rules shall be made by filing a motion therefor. The motion shall state the grounds on which it is based, the relief sought, argument in support thereof, and appropriate citations of authority."

Short Title of contents:
* Grounds on which motion is based
* Relief sought
* Argument in support thereof
* Appropriate citations of authority

* Grounds on which motion is based:

RULE 9.030(a)(3), Fla.R.App.P.: "The supreme court may issue...all writs necessary to the complete exercise of its jurisdiction...."

RULE 9.030(a)(1)(A)(ii), Fla.R.App.P.: [Mandatory] Appeal Jurisdiction. The Supreme Court SHALL review, by appeal decisions of district courts of appeal declaring invalid a state statute or provision of the state constitution." (Emphesis added by capitalization; Comments added in brackets)

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* Relief sought:

Acceptance of this case ; Order overturning the unlawful actions of the respondents, both the district court of appeal, and the lower tribunal beneath it.

* Argument in support therof with appropriate citations of authority:

Although provisions exist for briefs on jurisdiction for discretionary procedings (see RULE 9.120(d), generally), nonetheless, it shall be noted in the preface that there exists no provisions in the Florida Rules of Appellate Procedure of Appellate Procedure for a brief on jurisdiction, when jurisdiction arises under original jurisdiction, such as "all writs" (see RULE 9.100), or under mandatory appellate jurisdiction, arising out od a DCA declaring invalid a statute of section of the state constitution (see RULE 9.110).

Therefore, RULE 9.300 is invoked to bring to This Court the proper communications regarding jurisdiction.

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ALL WRITS JURISDICTION:

St. Paul Title Ins. Corp. v Davis (392 So.2d 1304-05, Fla. 1980), generally held that the all writs clause can not confer jurisdiction of The Florida Supreme Court to seek discretionery review over decisions of district courts of appeal in PCA decisions, without opinion.

Indeed, "the [Florida Supreme] Court's 'all writs' authority remains one of the most confusing and unsettled areas of jurisdiction, a problem worsened by the infrequency of all writs cases." (The Operation and Jurisdiction of the Florida Supreme Court, Kogan and Waters, 18 Nova L. Rev 1151, (Fla. 1994) at VII. E.)

However, the instant case comes within RULE 9.030(a)(3), which, by the definition, is "Original Jurisdiction," so therefore St. Paul and his progeny do not apply.

The "aiding ultimate jurisdiction" would seem the most conservative and common standard for applying the "all writs" jurisdiction. (Ibid; Accord: Florida Senate v Graham, 412 So.2d 360-361 (Fla. 1982))

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The Lower Tribunal in the instant case at bar would have This Court believe that Due Process does not require that the victim even know that the Florida Commission on Human Relations exists, which is absurd on its face, and an obvious violation of due process. Furthermore, where there are laws which allow Petitioner Gordon Watts' one-year statute of limitations to commence either on the day of the act or the day he discovered the discrimitory act, fairness would require that the law be followed.

However, no matter how good the law, if it is not followed, and enforced by the District Courts of Appeal, it is no good at all: "The law is only for the rich." (Common saying) The District Courts of Appeal, in writing a PCA decision, without a written opinion, seek to deny access of This Court to enforce justice. This is improper and offensive. This Court should have access to review any lawful appeal it desires.

This would imply that This Court may, if it desires, take this case on the basis of "aiding ultimate justice," invoking all writs authority, even if another basis for jurisdiction exists, which, is true in the instant case.

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Having made this case, the petitioner will now leave off and explore an equally appropriate alternative.

MANDATORY APPEAL JURISDICTION

Although it is common knowledge that a ruling, with a written opinion, explicitly stating: "this statute is invalid" is basis for mandatory appellate jurisdiction, Lower Tribunal, in refusing to give a written opinion in PCA decisions, regularly attempts to block This Court's appellate review access, apparently inappropriate.

Article I, Section 21, Florida Constitution protects petitioner generally in regards to "redress of any injury" from inappropriate appellate court action. (Accord: Amendment I, US Const, in re

Redress Rights)

However, there is specific and explicit basis for review under the laws, rules, and appropriate case law:

Lower Tribunal would have This Court believe that the last word on its desire to restrict review access would be had by Jenkins v. State, 385 So. 2d 1356, 1359 (Fla.1980)(holding that this Court does not have jurisdiction to review the

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unelaborated denials or per curiam decisions without opinion of the district courts).

However, a closer reading of Jenkins reveals that this holding is specifically directed to decisions of District Courts of Appeal, in which conflict exists between other District Courts of Appeal -or between decisions made by This Court, The Florida Supreme Court:

A district court decision without opinion is not reviewable on discretionary conflict jurisdiction. See again: Jenkins v. State, 385 So.2d 1356 (Fla. 1980); Accord: Dodi Publishing Co. v. Editorial Am., S.A., 385 So.2d 1369 (Fla. 1980).

Although there is the great temptation for This Court to take the path of least resistance (and, indeed, the case load of This Court is high and heavy), nonetheless, the precedent set -and attendant justice effected for those all affected -would no doubt weigh in the balance for This Court in favor of taking review of the case at bar. (I.e., the "case law" set here would go a long way in "settling" these two "unsettled" areas of case law.)

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While the "inherent invalidity" doctrine has now been abolished, pursuant to updates in the constitution, "commentators have suggested that the Florida Supreme Court might properly exercise this type of jurisdiction in the rare event that a district court has summarily affirmed a lower court's ruling expressly invalidating a statute." The Operation and Jurisdiction of the Florida Supreme Court, Kogan and Waters, 18 Nova L. Rev 1151, (Fla. 1994), at V. D., citing Arthur J. England, Jr., et al., Constitutional Jurisdiction of the Supreme Court of Florida: 1980 Reforms, 32 U. FLA. L. REV. 147, 169-70 (Fla. 1980))

But, This Court asks: "Is the really true?"

ANSWER:

This Court, for better or for worse, is constrained by the Florida Rules of Appeallate Procedure:

The RULES, when mandating that the decisions of the district court must, of necessity explicitly state an act, declare so as to wit:

"The discretionary jurisdiction of the supreme court may be sought to review (A) decisions of district courts that (i) EXPRESSLY declare valid a state statute; (ii)

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EXPRESSLY construe a provision of the state or federal constitution;" (RULE 9.030(A)(i) and (ii), Fla.R.App.P., Emphesis added with Caps)

If mandatory jurisdiction had required these same standards then the constitutional revisors would have explicitly included them, as they have here supra.

So, do they?

RULE 9.030(a)(1)(A)(ii), Fla.R.App.P.: [Mandatory] Appeal Jurisdiction. The Supreme Court SHALL review, by appeal decisions of district courts of appeal declaring invalid a state statute or provision of the state constitution." (Emphesis added by capitalization; Comments added in brackets)

There is no constitutional, statutory, nor procedural requirement for "express" or "explicit" declaration.

Thus, the case law remains unsettled, as well as This Court and all the State, for the two areas concerned and addressed in this instant appeal.

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IN CONCLUSION:

While the making of case law in these two areas is of utmost importance, even more paramount is this axiom:

The Laws of the Land have been written for the purpose of protecting "little" people from oppresive abuses and egregious violations. The intent of the "forefathers" was this. It is therefore offensive that these laws would be written and appellate courts would come along and snub This Court, by first renderring decisions that deny justice to the "little" people, and then by attempting to deny This Court review jurisdiction access.

This is added on top of the violations of the initial lower tribunal, the Florida Commission on Human Relations, who may be very willing to do their job, if only they can get "permission" from the Higher Courts, whomever they may be.

"It does no good for the existance of laws -or Courts -if the justice if swept aside for convenience." (Watts, 2004)

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In the interests of:

(1) establishing solid case law;
(2) exercising protective appellate authority of its charges (the "little" people); and,
(3) for the interests of satisfying curiosity of all the underlying issues, This Court should take this case, and should furthermore
(4) Overturn in part the order of the District Appeallte Court; and, Remand in part, ordering lowest tribunal Fla Comm on Hum Relations investigate the allegations of racial profiling, and ethnic discrimination, as the police so admit explicitly in their official police report, especially in consideration of the exceeding difficulty experienced by poor and less than powerful pro se petitioner in convincing the police to admit anything in a report of this nature and the requisite difficulty in obtaining such a police report.

Respectfully submitted,

Gordon Wayne Watts
GORDON W. WATTS, Petitioner / Plaintiff / Appellant

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing MOTION and SUPPLEMENT was mailed to the following parties this _06th_ day of _January_ 2004 in duplicate by First Class U.S. Postal Mail - from two separate locations to ensure delivery, and with one copy Certified with return receipt.

Denise Crawford, Clerk of the Commission, c/o Fla. Comm. on Human Relations
2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301-4857

Second District Court of Appeal, State of Florida
Post Office Box 327 ~~~ 1005 East Memorial Boulevard, Lakeland, FL 33801

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--END OF APPENDIX, incorporated and in font 12 to differentiate--

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was sent to the following parties this _17th_ day of _May_, 2004, as indicated:

* Hon. Thomas D. Hall, Clerk, Supreme Court of Florida 500 South Duval Street - Tallahassee, FL 32399-1927 (An original + 7 copies of this "PROPER MOTION REGARDING JURISDICTION," plus 1 courtesy copy of the Initial Brief, printed out and a copy on 3.5" Computer Diskette, in case one copy was lost, mislabeled, or misplaced) (Sent by either certified postal mail with return receipt or overnight, depending on resources)

* Denise Crawford, Clerk of the Commission, c/o Fla. Comm. on Human Relations 2009 Apalachee Parkway, Suite 100, Tallahassee, FL 32301-4857 (An original + 1 copy of PROPER MOTION REGARDING JURISDICTION," plus 1 copy of the Initial Brief on 3.5" Computer Diskette, but not a hard copy) (Sent by certified postal mail with return receipt)

Respectfully submitted,

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