

No Reg Case

IN THE SUPREME COURT OF FLORIDA

CASE NO. 63,614

FILED
JULY 19 1935
COURT
CLERK

THE STATE OF FLORIDA,

Petitioner,

vs.

R. H., a juvenile,

Respondent.

ON CERTIFIED QUESTION FROM THE
DISTRICT COURT OF APPEAL OF FLORIDA,
THIRD DISTRICT

BRIEF OF RESPONDENT ON MERITS

BENNETT H. BRUMMER
Public Defender
Eleventh Judicial Circuit of
Florida
1351 Northwest 12th Street
Miami, Florida 33125

BRUCE A. ROSENTHAL
Assistant Public Defender

Attorney for Respondent

TABLE OF CONTENTS

	<u>PAGE</u>
INTRODUCTION.....	1
STATEMENT OF THE CASE.....	2
ARGUMENT.....	3
THE ABSENCE OF REVIEW BY THE STATE OF ADVERSE JUVENILE COURT ORDERS HAS BEEN SETTLED BY THIS COURT'S RECENT DECISIONS.	
CONCLUSION.....	4
CERTIFICATE OF SERVICE.....	5

TABLE OF CITATIONS

PAGE

STATE v. C.C.
476 So.2d 144 (Fla. 1985).....3

STATE v. G.P.
476 So.2d 1272 (Fla. 1985).....3

INTRODUCTION

The Respondent, the juvenile R.H., was the Respondent in the trial court and the Appellee before the Third District Court of Appeal. The Petitioner, the State, was the Petitioner in the trial court and the Appellant before the Third District.

STATEMENT OF THE CASE

The State's appeal, from a juvenile court order dismissing a petition of delinquency which had been filed against the Respondent, was dismissed by the Third District Court of Appeal on September 27, 1983. State v. R.H., 449 So.2d 284 (Fla. 3d DCA 1983). The District Court certified the following question as one of great public importance:

"Does the State have the authority to file plenary appeals in juvenile cases, and, if not, may this court review by certiorari an order dismissing a petition for delinquency?"

Id. at 284.

By order dated October 21, 1985, this Court granted briefing by the parties. This brief responds to the Petitioner's Brief on the Merits, which is erroneously labeled Reply Brief on the Merits.

ARGUMENT

THE ABSENCE OF REVIEW BY THE STATE OF ADVERSE
JUVENILE COURT ORDERS HAS BEEN SETTLED BY THIS
COURT'S RECENT DECISIONS.

The question certified by the Third District has been dispositively answered by this Court's recent decisions in State v. C.C., 476 So.2d 144 (Fla. 1985) and State v. G.P., 476 So.2d 1272 (Fla. 1985), which respectively hold that the State does not have the right of appeal of adverse juvenile court rulings, and has no greater right to obtain such review by certiorari. The dismissal of the State's appeal by the Third District was therefore eminently correct, and should be approved upon authority of State v. C.C. and State v. G.P.

CONCLUSION

The question certified by the Third District has been conclusively answered by this Court in State v. C.C., 476 So.2d 144 (Fla. 1985) and State v. G.P., 476 So.2d 1272 (Fla. 1985) and the dismissal of the appeal below should be approved upon authority of same.

Respectfully submitted,

BENNETT H. BRUMMER
Public Defender
Eleventh Judicial Circuit of
Florida
1351 Northwest 12th Street
Miami, Florida 33125

By: 
BRUCE A. ROSENTHAL
Assistant Public Defender

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed to RICHARD E. DORAN, Assistant Attorney General, Office of the Attorney General, 401 Northwest 2nd Avenue, Miami, Florida, this 18th day of December, 1985.



BRUCE A. ROSENTHAL
Assistant Public Defender