

IN THE SUPREME COURT OF FLORIDA

CASE NO. 64,575

R. F., a juvenile  
Petitioner,  
vs.  
THE STATE OF FLORIDA,  
Respondent.

**FILED**

W. J. WHITE

DEC 13 1985

CLERK, SUPREME COURT

By \_\_\_\_\_  
Deputy Clerk

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ON DISCRETIONARY REVIEW

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BRIEF OF RESPONDENT

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BRIEF OF RESPONDENT ON THE MERITS

INTRODUCTION

The respondent, R. F., was the juvenile-respondent in the trial court, the Circuit Court of the Eleventh Judicial Circuit of Florida in and for Dade County (Juvenile-Family Division), and the respondent in the District Court of Appeal of Florida, Third District. The petitioner, the State of Florida, was the petitioner in the trial court and the District Court of Appeal. The parties will be referred to in this brief as they stand before this Court.

The symbol "A" will be utilized to designate the appendix to this brief, which is comprised of the order of the court below. All emphasis is supplied unless the contrary is indicated.

STATEMENT OF THE CASE AND FACTS

Respondent accepts petitioner's Statement of the Case and Facts as an accurate recital of the proceedings in the courts below.

QUESTION PRESENTED

WHETHER COMMON-LAW CERTIORARI IS UNAVAILABLE FOR REVIEW OF INTERLOCUTORY ORDERS OF CIRCUIT COURTS IN JUVENILE-DELINQUENCY CASES UNDER CHAPTER 39, FLORIDA STATUTES (1983).

SUMMARY OF ARGUMENT

The District Court of Appeal dismissed petitioner's application for common-law certiorari, which sought review of an order suppressing post-arrest statements obtained from respondent by police officers. In State v. G.P., 10 F.L.W. 468 (Fla. Aug. 30, 1985), this Court held that the state may not seek certiorari review of final or interlocutory orders in juvenile-delinquency cases.

ARGUMENT

COMMON-LAW CERTIORARI IS UNAVAILABLE FOR  
REVIEW OF INTERLOCUTORY ORDERS OF CIRCUIT  
COURTS IN JUVENILE-DELINQUENCY CASES UNDER  
CHAPTER 39, FLORIDA STATUTES (1983).

In State v. C.C., 476 So.2d 144 (Fla. 1985), this Court held that the state has no right of appeal from final or interlocutory orders in juvenile-delinquency cases brought under Chapter 39, Florida Statutes (1983). The decision of the Third District which this Court approved in C.C. had also held that certiorari was unavailable for review of unappealable orders in such instances. State v. C.C., 449 So.2d 280 (Fla. 3d DCA 1983) (en banc), approved, 476 So.2d 144 (Fla. 1985). In the present case, petitioner sought review of a nonfinal order granting a motion to suppress post-arrest statements, and the District Court of Appeal dismissed the petition on the authority of its decision in C.C. (A. 1).

In State v. G.P., 10 F.L.W. 469 (Fla. Aug. 30, 1985), this Court broadly held that the state has no right to seek review of unappealable orders in juvenile-delinquency cases by common-law certiorari:

In State v. C.C. [citation omitted] we held that the right of appeal given in section 39.14, Florida Statutes (1981), does not extend to the state. We also agreed with the district court in C.C. that interlocutory review is available only in cases in which an appeal may be taken as a matter of right.

In the instant case the third district reached the same result and held that, because the state has no right to appeal under section 39.14, it also has no right to have a juvenile order reviewed by writ of certiorari. [citation omitted]. We agree with the district court. Chapter 39, dealing with

juveniles, is a purely statutory creation which does not give the state the right of appeal. The state has no greater right by certiorari. We approve the district court's decision.

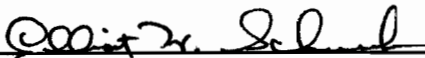
Ibid; accord, J.P.W. v. State, 10 F.L.W. 486 (Fla. Aug. 30, 1985). This precedent, which is controlling in this case, requires approval of the order of dismissal of the court below.

CONCLUSION

Based upon the foregoing, respondent requests this Court to approve the decision of the court below.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing brief of respondent was forwarded by mail to the Office of the Attorney General, RICHARD E. DORAN, Assistant Attorney General, 401 N.W. Second Avenue, Suite 820, Miami, Florida 33128 this 11th day of December, 1985.

  
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ELLIOT H. SCHERKER  
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