

Supreme Court of Florida

No. 65,191

STATE OF FLORIDA, Petitioner,

v.

GENERAL DEVELOPMENT CORPORATION, Respondent.

[May 23, 1985]

McDONALD, J.

This case is before us to review State v. General Development Corp., 448 So.2d 1074 (Fla. 2d DCA 1984), which expressly affects a class of constitutional or state officers. We have jurisdiction. Art. V, § 3(b)(3), Fla. Const.

The district court held that a state attorney could not, in his official capacity, initiate an action for civil or administrative proceedings to enforce the state's environmental laws set forth in chapter 403, Florida Statutes (1981). We approve the opinion of the district court and adopt it as the opinion of this Court.

It is so ordered.

ADKINS, OVERTON, ALDERMAN, EHRLICH and SHAW, JJ., Concur
BOYD, C.J., Concurs specially with an opinion

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND,
IF FILED, DETERMINED.

BOYD, C.J., concurring specially.

I agree with the court's approval and adoption of the decision and opinion of the district court of appeal to the extent that the decision holds that the state attorney did not have authority derived from article V, section 17, Florida Constitution and section 27.02, Florida Statutes (1981), to bring the action for civil penalties or enforcement pursuant to sections 403.121 and 403.141, Florida Statutes (1981), or under chapter 120, Florida Statutes (1981). As I understand the district court's decision being approved by this Court, it neither held nor said anything about the possibility of a state attorney bringing an enforcement proceeding in an official capacity pursuant to the provisions of section 403.412, Florida Statutes (1981), or a proceeding to establish criminal liability under section 403.161.

Application for Review of the Decision of the District Court of
Appeal - Class of Constitutional Officers

Second District - Case No. 83-58

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for Petitioner

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Robert Josefsberg of Podhurst, Orseck, Parks, Josefsberg, Eaton,
Meadow and Olin, Miami, Florida; and Joseph Z. Fleming of Fleming
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for Respondent