

IN THE SUPREME COURT OF FLORIDA

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CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

D.A.E., a child,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

CASE NO. 66,090

RESPONDENT'S BRIEF ON JURISDICTION

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THE INSTANT DECISION OF THE
DISTRICT COURT, STATE V. D.A.E.,
So.2d , CASE NO. 84-184
(FLA. 5TH DCA SEPTEMBER 27, 1984)
[9 FLW 2087], EXPRESSLY AND
DIRECTLY CONFLICTS WITH STATE V.
G.P., 429 So.2d 786 (FLA. 3D
DCA 1983).

In the instant case, the Fifth District addressed on the merits the State's contention on appeal regarding the lower court's dismissal of a juvenile prosecution on speedy trial grounds; Petitioner had argued that the cause should have been dismissed for lack of jurisdiction, in that the Third District Court of Appeal has held that such juvenile orders are not appealable by the State. Compare State v. G.P., 429 So.2d 786 (Fla. 3d DCA 1983), petition for review granted, Case No. 63,613; State v. C.C., 449 So.2d 280 (Fla. 3d DCA 1983), petition for review granted, Case No. 64,354. In its decision, the Fifth District noted the position of the Third District, but relied upon its own precedent, State v. W.A.M., 412 So.2d 49 (Fla. 5th DCA), cert. denied, 419 So.2d 1201 (Fla. 1982), and the harmonious decision of the Fourth District Court of Appeal in State v. J.P.W., 433 So.2d 616 (Fla. 4th DCA 1983), petition for review granted, J.P.W. v. State, Case No. 63,981, in reversing the lower court's order.

G.P., C.C. and J.P.W. are all before this Court on certified questions of great public importance, pursuant to Article V, Section 3(b)(4) Florida Constitution. All cases have been fully briefed and, where appropriate, argued. Each calls upon this Court to determine whether or not the State

can appeal dismissal of charges or discharge of defendants on speedy trial grounds in juvenile proceedings. The position of the Third and Fifth District Courts of Appeal is one of conflict, but, given the advanced stage of the other cases before this Court in which identical issues have been presented, it is unlikely that this case will require extended briefing or deliberation. Because this case will, in all likelihood, be decided in harmony with G.P., C.C. and J.P.W., Respondent has no objection to this Court's acceptance of jurisdiction.


Because such cases have, as noted above, already fully presented this issue, and have proceeded further to judgment, Respondent files concurrently herewith a motion for this cause to travel together with G.P., C.C. and J.P.W.

CONCLUSION

WHEREFORE, for the aforementioned reasons, Respondent has no objection to this Court's acceptance of jurisdiction of the instant proceeding.

Respectfully submitted,

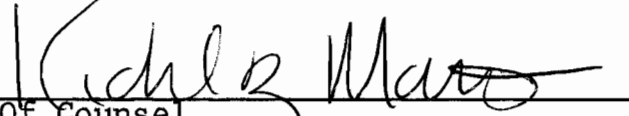
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing has been furnished by delivery to Daniel J. Schafer, Assistant Public Defender, 1012 S. Ridgewood Avenue, Daytona Beach, Florida 32014, this 19 day of November, 1984.


OF Counsel
Richard B. Martell