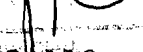


FILED

APR 11 1987

IN THE SUPREME COURT OF FLORIDA

CLERK OF THE COURT

By 

CASE NO. 70,110

RALPH RAMER,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

PETITIONER'S AMENDED BRIEF OF JURISDICTION

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PRELIMINARY STATEMENT

The present case is before the Court on a Petition for Review seeking review of the decision of the District Court of Appeals Fourth District reported as State vs. Ramer, 501 So. 2d 52 (Fla. DCA 4th 1987).

The decision of the District Court of Appeals reversed the order of the trial court granting Petitioner's Motion to Suppress.

STATEMENT OF THE CASE AND FACTS

On January 16, 1985 an Indictment ws filed in the Fifteenth Judicial Circuit in and for Palm Beach County, Florida charging the Petitioner, RALPH RAMER, and others with murder in the first degree.

Thereafter, the Petitioner filed his Motion to Suppress Physical Evidence.

On February 25, 1986 following an evidentiary hearing, an order was entered by The Honorable William Owen, Judge of the Fifteenth Judicial Circuit, granting the Petitioner's Motion to Suppress.

On March 3, 1986 the Respondent filed a Notice of Appeal seeking review of the trial court's order in the District Court of Appeals, Fourth District.

On January 7, 1987 the District Court of Appeals, Fourth District issued its' decision reversing the order of the trial court granting the Motion to Suppress.

Thereafter, the Petitioner timely filed his Petition for Rehearing in the District Court of Appeals, Fourth District. The Petition for Rehearing was denied by the court on Feburary 11, 1987.

Thereafter, the Petitioner filed his Petition for Review before this Court.

POINT I

ARGUMENT

THE DECISION OF THE DISTRICT COURT OF
APPEALS, FOURTH DISTRICT IN THE PRESENT
CASE EXPRESSLY AFFECTS A CLASS OF
CONSTITUTIONAL OFFICERS.

The Petitioner seeks to invoke the discretionary jurisdiction of this Court under Article V § 3 (b) 3 on the grounds that the decision of the District Court of Appeals, Fourth District expressly affects a class of constitutional or state officers. In order to invoke the jurisdiction of this Court under this section the Petitioner must meet three criteria.

First, the Petitioner must demonstrate that the decision involves either constitutional or state officers, although the officers need not be a direct party to the action. State vs. Laiser, 322 So. 2d 490 (Fla. 1975); State vs. Robinson, 132 So. 2d 156 (Fla. 1961). Second, the Petitioner must demonstrate the decision involves a class of constitutional or statutory officers rather than merely an individual who is a constitutional or state officer. As stated by this Court in Florida State Board of Health vs. Lewis, 149 So. 2d 41 (Fla. 1963),

"The obvious purpose of the provision in question [Article V § 3 (b) (3)] was to permit this Court to review a decision which directly affects one state officer and in so doing similarly affects every other

state officer in the same category." (149 So. 2d at 421).

Third, the Petitioner must demonstrate that the decision expressly affects the class of constitutional officers or state officers as stated by this Court in Spradley vs. State, 293 So. 2d 697 (Fla. 1974),

"To vest this Court with certiorari, jurisdiction, a decision must directly and in some way, exclusively affect the duties, powers, validity, formation, termination or regulation of a particular class of constitutional or state officers." (original emphasis) (293 So. 2d at 701).

The Petitioner submits that the decision in the present case meets fully these criteria. First, there can be no question that the individual sheriffs of the respective counties in the State of Florida are constitutional or state officers. Specifically, the office of "county sheriff" is created by Article VIII § 1 (d) of the Florida Constitution. Further, this Court in State vs. Laiser, supra granted jurisdiction upon a finding that the district court's opinion affected all sheriffs of the state in the performance of their duties.

Second, the decision of the district court of appeals affects a class of constitutional or state officers. Specifically, it is noted in the decision of the district court of appeals, the trial court held that a sheriff is empowered to appoint special deputies only under the circumstances enumerated in Florida Statute 30.09 (4).

Conversely, according to the circuit court, a sheriff may not appoint a special deputy for a purpose not enumerated in the statute.

The District Court of Appeals, Fourth District specifically overruled this portion of the trial court's order. In so doing the District Court of Appeals, Fourth District has expressly empowered the sheriffs of every county in the State of Florida to appoint special deputies for purposes other than those enumerated in Florida Statute 30.09 (4). Clearly, the implications of the decision extend well beyond the powers possessed and exercised by the Sheriff of Palm Beach County.

Third, the decision expressly affects the powers of every sheriff in every county in the State of Florida. Whereas Florida Statute 30.09 (4) appears to limit the circumstances under which the sheriff of a county may appoint a special deputy, the decision of the district court of appeals now expands those circumstances without apparent limitation.

The Petitioner fully recognizes that the jurisdiction vested under Article V § 3 (b) (3) is discretionary in that by simply meeting the criteria of Article V § 3 (b) (3) does not necessarily result in this Court exercising it's discretion to assume jurisdiction. However, the Petitioner respectfully requests that this Court exercise its

discretion and assume jurisdiction in the present case for the following reason.

Florida Statute 30.09 (4) empowers the sheriffs of the respective counties to appoint special deputies. At the same time the statute purports to limit the circumstances under which such appointments can be made. Yet, according to the decision of the district court of appeals the circumstances set forth in Florida Statute 30.09 (4) (a)-(g) do not set forth all the circumstances. Namely, there are other circumstances where a sheriff may appoint individuals to act as special deputies, yet, the decision of the district court gives actually no guidance as to that the other circumstances are. Further, the last paragraph of Florida Statute 30.09 (4) sets forth the arrest powers and minimum requirements of special deputies appointed under the statutory circumstances. Yet, the decision of the district court gives no insight as to either the arrest powers or minimum requirements of the deputies appointed under the non-statutory circumstances.

For the foregoing reasons the Petitioner respectfully requests this Court to grant jurisdiction in the present case in order to determine whether the sheriffs of the individual counties of the State of Florida are empowered to appoint special deputies under circumstances not enumerated in Florida Statute 30.09 (4) (a)-(g).

SUMMARY OF ARGUMENT

The decision of the District Court of Appeals, Fourth District reflects that a city police officer conducted a search of an automobile outside the municipal limits of the city where he was employed. However, at the time of the search the officer had been appointed a special deputy by the sheriff of Palm Beach County as authorized by Florida Statute 30.09 (4).

The trial court found that the conduct of the officer did not come within one of the enumerated circumstances set forth in Florida Statute 30.09 (4). Thus, the officer was without authority to conduct a search of the automobile and any fruits of the search should be suppressed.

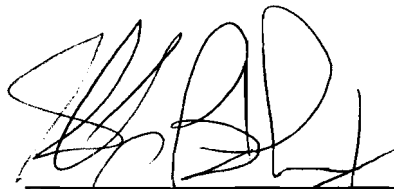
The District Court of Appeals, Fourth District held that Florida Statute 30.09 (4) does not list all of the circumstances under which the sheriff of an individual county may appoint special deputies. In so doing the District Court of Appeals, Fourth District has greatly expanded the authority of the respective sheriffs of each county in the State of Florida to appoint special deputies. Indeed, pursuant to the decision of the district court of appeals there is no limitation on the authority of the respective sheriffs to appoint special deputies under any

circumstances deemed appropriate by the individual sheriff.

The individual sheriffs of the respective counties are clearly a class of constitutional officers. State vs. Laiser, 322 So. 2d 490 (Fla. 1975). Where the decision of the district court of appeals greatly expands the authority of the respective sheriffs to appoint special deputies, the decision of the district court of appeals expressly affects a class of constitutional officers within the contemplation of Article V § 3 (b) (3).

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true copy of the foregoing has been furnished by mail to: Amy Lynn Diem, Assistant Attorney General, 111 Georgia Avenue, Suite 204, West Palm Beach, Florida 33401.



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DATED this 21ST day of March, 1987.