

DA 12.4.87

IN THE SUPREME COURT OF FLORIDA

CASE NO. 70,110

RALPH RAMER,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

FILED
NOV 13 1987

NOV 13 1987

COURT
m

REPLY BRIEF OF PETITIONER

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POINT I

At page eleven of the Respondent's brief the Respondent asserts,

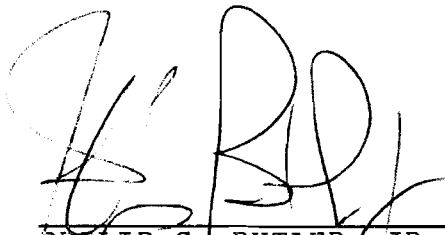
"Alternatively, should this Court find that the officer acted outside his authority, Respondent maintains that he was acting as a private citizen and the subsequent search triggered no Fourth Amendment protections." (Respondent's Brief, page 11).

The Respondent misapprehends the law pertaining the private citizens and the Fourth Amendment. Specifically, there is a common law right for a private citizen to effect an arrest for a felony under certain circumstances. Collins vs. State, 143 So. 2d 700 (2nd DCA 1962). However, there is no common law right that permits a private citizen to enter upon private property and seize an automobile based on a belief, whether reasonable or otherwise, that the automobile is either stolen or contains evidence of a crime. Nor is there a common law right that permits a private citizen to search a vehicle or seize the contents of the vehicle. Rather, the only authority for a seizure of the automobile and the search of its contents by any individual arises from Florida Statute 933.19 discussed at length in the Petitioner's initial brief herein.

As previously noted, Florida Statute 933.19 mandates that a seizure of a vehicle and the search of the vehicle be conducted only by a "duly authorized and constituted bonded officer of this state". Obviously, this provision excludes seizures of automobiles and searches of automobiles by private citizens. More importantly, under the facts and circumstances of the present case, this provision also excludes the seizure of the Petitioner's automobile and the subsequent search of the automobile by Sargent Curran.

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 this 13th day of November, 1987.



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