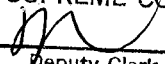


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MAR 27 1991

CLERK, SUPREME COURT

By  Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA, :
Petitioner, :
vs. :
CESAR ANTWON JAMES, :
Respondent. :
_____ :

Case No. 77,414
2nd DCA No. 90-01506

DISCRETIONARY REVIEW OF THE DECISION OF THE
DISTRICT COURT OF APPEAL OF FLORIDA
SECOND DISTRICT

ANSWER BREIF OF RESPONDENT ON THE MERITS

J. MICHAEL RYON, ESQ.
5124 Trouble Creek Road
New Port Richey, FL 34652
(813) 847-4320
FL BAR #281123

ATTORNEY FOR RESPONDENT

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STATEMENT OF THE CASE

The Appellant (Respondent), CESAR ANTWON JAMES, accepts
Petitioner's Statement of the Case and Facts.

ARGUMENT

ISSUE I

WHEN A DOUBLE JEOPARDY VIOLATION IS ALLEGED BASED ON THE CRIMES OF SALE AND POSSESSION (OR POSSESSION WITH INTENT TO SELL) OF THE SAME QUANTUM OF CONTRABAND AND THE CRIMES OCCURRED AFTER THE EFFECTIVE DATE OF SECTION 775.021, FLORIDA STATUTES (SUPP. 1988), IS IT IMPROPER TO CONVICT AND SENTENCE FOR BOTH CRIMES?

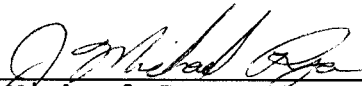
Respondent acknowledges that the Court has recently decided this issue in the cases of State vs. McCloud, So.2d , 16 F.L.W. S194 (March 1, 1991) and State vs. V.A.A., So.2d , 16 F.L.W. S194 (March 1, 1991). In those two cases the Court has held that it is not improper to convict and sentence for both sale and possession of cocaine after the effective date of Section 775.021, Florida Statutes (1988). The two cases are based on the certified question in this case, and those decisions would be controlling this matter.

CONCLUSION

Wherefore, based on the foregoing reasons, arguments, and authorities, Respondent respectfully requests this Honorable Court to enter its decision accordingly.

CERTIFICATE OF SERVICE

I certify that a copy has been mailed to Robert Butterworth, Suite 700, 2002 N. Lois Ave., Tampa, Florida 33607, (813) 873-4730, on this 21 day of March, 1991.



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