FILED
SID J. WHITE

IN THE SUPREME COURT OF FLORIDA

OCT 14 1991
CLERK, SUPREME COURT.
By
Chief/Deputy Clerk

RANDALL S. PIERCE,

Petitioner,

v.

CASE NO. 78,467

STATE OF FLORIDA,

Respondent.

AMENDED MERITS BRIEF OF RESPONDENT

ROBERT A. BUTTERWORTH ATTORNEY GENERAL

DAVID S. MORGAN ASSISTANT ATTORNEY GENERAL Florida Bar No. 651265 210 N. Palmetto Avenue Suite 447 Daytona Beach, FL 32114 (904) 238-4990

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SUMMARY OF ARGUMENT

This court recently answered the same certified question in the negative.

ARGUMENT

THIS COURT RECENTLY ANSWERED THE CERTIFIED QUESTION IN THE NEGATIVE.

The question certified in this case is:

DO FLORIDA'S UNIFORM SENTENCING GUIDELINES REQUIRE THAT LEGAL CONSTRAINT POINTS BE ASSESSED FOR EACH OFFENSE COMMITTED WHILE UNDER LEGAL CONSTRAINT?

Pierce v. State, case no. 90-1018, slip op. (Fla. 5th DCA August 15, 1991).

This same question was answered by this court in the negative recently in $Flowers\ v.\ State$, case no. 78,854, slip op. (Fla. October 3, 1991).

CONCLUSION

This court has already answered the certified question.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I certify that a copy hereof has been furnished to Barbara L. Condon, Assistant Public Defender, 112-A Orange Ave., Daytona Beach, FL 32114, by interoffice delivery on this 6th day of October, 1991.

DAVID'S. MORGAN

ASSISTANT ATTORNEY GENER