

IN THE SUPREME COURT OF FLORIDA

047
FILED

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DEC 16 1991

CLERK, SUPREME COURT.

By 
Chief Deputy Clerk

GLENN S. READER,

Petitioner,

v.

CASE NO. 78,864

STATE OF FLORIDA,

Respondent.

ON DISCRETIONARY REVIEW FROM THE
DISTRICT COURT OF APPEAL, FIFTH DISTRICT

RESPONDENT'S MERITS BRIEF

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TOPICAL INDEX

PAGES:

AUTHORITIES CITED.....ii
STATEMENT OF THE CASE AND FACTS.....1
SUMMARY OF ARGUMENT.....2

ARGUMENT

 WHETHER THE TRIAL COURT CORRECTLY
 IMPOSED LEGAL CONSTRAINT POINTS FOR
 EACH OFFENSE AT CONVICTION.....3
CONCLUSION.....4
CERTIFICATE OF SERVICE.....4

AUTHORITIES CITED

CASES:

PAGES:

Flowers v. State, 568 So.2d 1058 (Fla. 1991).....3

STATEMENT OF THE CASE AND FACTS

The respondent accepts the statement of the case and facts set out by the petitioner in his merits brief.

SUMMARY OF ARGUMENT

The trial court, in sentencing the petitioner pursuant to the sentencing guidelines, assessed legal constraint points for each of Mr. Reader's five offenses at conviction. The resulting increase in his score increased his recommended sentence by two cells. As he correctly states, this court has disapproved that practice.

ARGUMENT

WHETHER THE TRIAL COURT CORRECTLY
IMPOSED LEGAL CONSTRAINT POINTS FOR
EACH OFFENSE AT CONVICTION.


As the petitioner correctly states in his brief on the merits, the question certified by the district court in this case on September 26, 1991 was resolved in his favor by this court on October 3, 1991. Flowers v. State, 568 So.2d 1058 (Fla. 1991).

CONCLUSION

The state acknowledges that Mr. Reader must be resentenced.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Answer Brief has been furnished by hand delivery to Kenneth Witts, Assistant Public Defender, at 112-A Orange Avenue, Daytona Beach, Florida 32114, this 13th day of December, 1991.



NANCY RYAN
Assistant Attorney General