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CLERK, SUPREME COURT.

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA,

Petitioner,

v.

CASE NO. 79,358

DAYRELL TAYLOR,

Respondent.

PETITIONER'S BRIEF ON THE MERITS

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ISSUE

WHETHER SECTION 775.084(1)(a)1, FLORIDA STATUTES (SUPP. 1988), WHICH DEFINES HABITUAL FELONY OFFENDERS AS THOSE WHO HAVE "PREVIOUSLY BEEN CONVICTED OF TWO OR MORE FELONIES," REQUIRES THAT EACH OF THE FELONIES BE COMMITTED AFTER CONVICTION FOR THE IMMEDIATELY PREVIOUS OFFENSE?

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OTHER AUTHORITY

§775.084(1)(a)1, Fla. Stat. (Supp. 1988) 2, 4

IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA,

Petitioner,

v.

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Respondent.

_____ /

PETITIONER'S BRIEF ON THE MERITS

PRELIMINARY STATEMENT

Petitioner, the State of Florida, will be referred to herein as either "Petitioner" or "the State". Respondent, Dayrell Taylor, defendant below, will be referred to herein as "Respondent".

STATEMENT OF THE CASE AND FACTS

Petitioner was sentenced as a habitual felony offender in June, 1989, 1991, based on two prior felony convictions, all of which had been entered on the same day. On appeal, the First District Court of Appeal reversed Petitioner's sentence and certified the following question as one of great public importance:

WHETHER SECTION 775.084(1)(a)1, FLORIDA STATUTES (SUPP. 1988), WHICH DEFINES HABITUAL FELONY OFFENDERS AS THOSE WHO HAVE "PREVIOUSLY BEEN CONVICTED OF TWO OR MORE FELONIES," REQUIRES THAT EACH OF THE FELONIES BE COMMITTED AFTER CONVICTION FOR THE IMMEDIATELY PREVIOUS OFFENSE?

Taylor v. State, attached hereto as Exhibit A.

Notice to invoke this Court's discretionary jurisdiction was timely filed on February 13, 1992, and this Court issued an order postponing decision on jurisdiction and a briefing schedule on February 18, 1992.

SUMMARY OF ARGUMENT

Due to the brevity of the argument herein, a formal summary of the argument will be omitted.

ARGUMENT

ISSUE

WHETHER SECTION 775.084(1)(a)1, FLORIDA STATUTES (SUPP. 1988), WHICH DEFINES HABITUAL FELONY OFFENDERS AS THOSE WHO HAVE "PREVIOUSLY BEEN CONVICTED OF TWO OR MORE FELONIES," REQUIRES THAT EACH OF THE FELONIES BE COMMITTED AFTER CONVICTION FOR THE IMMEDIATELY PREVIOUS OFFENSE?


The question certified in the instant case was recently answered by this Court in the negative in State v. Barnes, 17 FLW S119 (Fla. February 20, 1992) (rehearing pending), attached hereto as Exhibit B. It is settled, therefore, that Respondent's habitual felony offender sentence based on prior felony convictions entered on the same day is a legal sentence.

CONCLUSION

Petitioner respectfully urges this Honorable Court to reverse the decision of the First District Court of Appeal below and reinstate Respondent's habitual felony offender sentence.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing brief has been furnished by U.S. Mail to Dayrell Taylor, Pro Se, DC#108654, Lawtey Correctional Institution, P.O. Box 229, Lawtey, Florida 32058-0229, this 11th day of March, 1992.


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