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**FILED**

SID J. WHITE

✓ OCT 26 1992

CLERK, SUPREME COURT

By \_\_\_\_\_  
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

CASE NO. 79,715

DANIEL TERENCE SAVOURY  
Petitioner

--VS--

THE STATE OF FLORIDA  
Respondent.

ON DISCRETIONARY REVIEW FROM THE DISTRICT  
COURT OF APPEAL FOR THE SECOND DISTRICT  
STATE OF FLORIDA

REPLY BRIEF OF PETITIONER

✓ DANIEL T. SAVOURY

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## INTRODUCTION

The Petitioner was the appellant in the district court below, and the Respondent was the appellee in the proceedings below. The parties will be referred to by their names respectively or by Petitioner or Respondent.

The reference to the portions of the record are attached in the appendix and will be referred to by the symbol ("A") in parenthesis followed by the appropriate page number.

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**ISSUE:**

THAT FLORIDA STATUTE SECTION 775.084 (AMENDED 1989) DOES VIOLATES THE SINGLE SUBJECT RULE OF THE FLORIDA CONSTITUTION

The Respondents take the position that s.775.084 (amended 1989), is not violative of the single subject rule based on the principle that the statute entails the penalty of criminal conduct.

The Respondent admits that the changes of the statute as it applies to repossession of cars is based on "private individuals conduct", (Response Brief at 5) as opposed to law enforcement officers duties to perform the act required (formally).

What the Respondent has refused to acknowledge is that Repossession of motor vehicles is not "logically connected with Habitual Felony Offenders,". Repossessors of motor vehicles do not face a penalty of doubling a prison sentence up to, and including life in prison. That simply is inconsistent with the Constitutional mandate of Article III s.6., Florida Constitution.

The Respondent claim that "Repossessors and private investigators are quasi-law enforcement officers" defies the definition of law enforcement officers as designated by the

Legislature. There is nothing in the statutes that denigrate or prescribe, even "sanction a repossession of motor vehicles" as a law enforcement officer with an "acting power" and other duties or provisions.

The habitual felony offender statutes is designed to penalize the status of the offender, not the offense. Respondents brief at page six states that "there is a cogent relationship between its habitual or career felony provisions and its repossession provisions. Both respond to frequent incidence of criminal activity; both seek to deter repeat offenses" (Respondents Brief at 6). This in itself is contrary to the meaning of the legislative intent of habitual felony provisions.

The provisions of the habitual felony offender law as amended in 1989 violate the single-subject rule of the Florida Constitution and should be so declared as such by this court. The logical connection is not there and the disparity is quite relevant in this particular case.

Repeating the courts decision in State v. Burch, 550 So.2d 312 (Fla. 1990), the Supreme Court quoted as follows from State v. Thompson, 163 So.2d 110 (1975):

Where duplicity of subject-matter is contained for as violative of Section 6 of Article III of the Constitution relating to and requiring but one subject to be embraced

in a single legislative bill the test of duplicity of subject is whether or not the provisions of the bill are designed to accomplish separate and disassociated objects of legislative effort.

The Burch court also quoted from Chenoweth v. Kemp, 396 So.2d 1122 (Fla. 1981):

[T]he subject of an act "may be as broad as the Legislature chooses as long as the matters included in the act have natural or logical connections"

State v. Burch, 558 So.2d at 2.

Defendant submits that there is no "natural or logical connections" between recidivits repossessors of cars and boats. Half of Chapter 89-280 addresses the prosecution and sentencign of recidivits, while the other half addresses the regulation of a lawful occupation. It is therefore clear that the law is "designed to accomplish separate and disassociated objects of legislative effort" as prohibited by the Constitution.

Section A.

THE STATUTE IS FACILLY UNCONSTITUTIONAL  
BECAUSE IT PENALIZES DEFENDANTS FOR THEIR  
STATUS AS HABITUAL FELONY OFFENDERS.

Petitioner relies on his arguement in his initial brief  
on this ground.



Section B

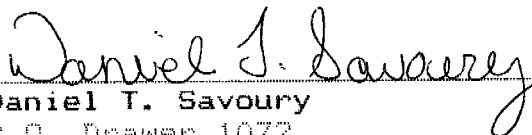
THE STATUTE IS FACIALLY UNCONSTITUTIONAL IN VIOLATION OF DUE PROCESS CLAUSE OF THE UNITED STATES CONSTITUTION AND ARTICLE I, SECTION 9 OF THE FLORIDA CONSTITUTION.

The Petitioner relies on his argument in his initial brief on this ground.

#### CONCLUSION

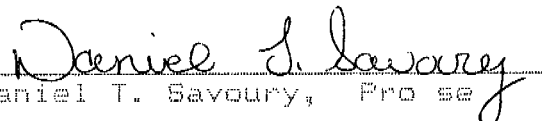
The Petitioner moves this court to quash the decision of the Second District Court of Appeal and remand to that court for further proceedings not inconsistent with its opinion.

Respectfully submitted

  
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#### CERTIFICATE OF SERVICE

I DO HEREBY CERTIFY that a true and correct copy of the afore has been furnished to Counsel for the Respondent, **ROBERT A. BUTTERWORTH**, Attorney General, 2001 N. Lois Avenue, Department of Legal Affairs, Tampa, Florida, 33602, this 15 day of oct, 1992, by U.S. Mail.

  
Daniel T. Savoury, Pro se