

D.A. 3-2-93 097

FILED

SID J. WHITE

JAN 15 1993

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

BOARD OF COUNTY COMMISSIONERS,
PINELLAS COUNTY, FLORIDA,

Petitioner,

vs.

Case No. 79,839
DCA Case No. 91-01332

TOM F. SAWYER,

Respondent.

_____ /

REPLY BRIEF OF PETITIONER

On Review from the District Court
of Appeal, Second District
State of Florida

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REBUTTAL ARGUMENT

THE ISSUE OF WHETHER THE COUNTY
IS REQUIRED TO REIMBURSE AN ACQUITTED
CRIMINAL DEFENDANT FOR INVESTIGATIVE
COSTS WAS PROPERLY PRESERVED BELOW

The sole issue/argument before this Court is whether the Second District ruled properly in holding that the investigative costs of a non-indigent acquitted criminal defendant are reimburseable taxable costs by the County under Section 939.06, Florida Statutes (1989). Sawyer asserts incorrectly that the County has raised a new issue/argument before this Court which was not preserved below. The only issue/argument before the Trial Court and the Second District was whether investigative costs were within the scope of taxable costs recoverable by a non-indigent acquitted defendant from the County under Section 939.06, Florida Statutes (1989). The legal issue/argument before this Court is identical to the legal issue presented to the lower courts.

The trial Court held that investigative costs were not included within the scope of taxable costs and not subject to reimbursement by the County. (R 30-31). On appeal, the Second District reversed the trial court ruling, holding that investigative costs were included within the scope of taxable costs and subject to reimbursement by the County. (A 1-7).

As Petitioner, the burden is upon the County to specify each alleged error upon which it relies for reversal.

"It is well settled that, in order to obtain appellate review, alleged errors relied upon for reversal must be raised clearly, concisely and separately as points on appeal."

Singer v. Borbua, 497 So.2d. 279, 281 (Fla. 3d DCA 1986).

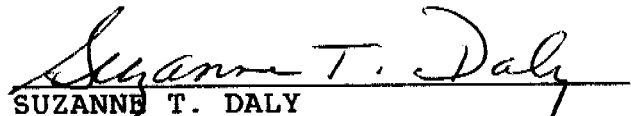
See Williams v. State Department of Transportation, 579 So.2d. 226, 228 (Fla. 1st DCA 1991).

In the instant case, the Second District is the first and only District Court to hold that investigative fees are taxable costs recoverable from the County. The County argues, in part, that the Second District erred by relying on the concept of mutuality to find that investigative costs are taxable costs recoverable from the County. Under Singer, supra, the County has properly identified for this Court an alleged error in the Second District ruling upon which it relies for reinstatement of the trial court order.

CONCLUSION

Based on the argument and authorities herein, and in Petitioner's Initial Brief and in the Amicus Curiae briefs, Pinellas County requests that this Court quash the Second District Court of Appeal's decision and reinstate the trial Court's order.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Reply Brief of Petitioner has been furnished by U.S. Mail, this 13th day of January, 1993, to the following:

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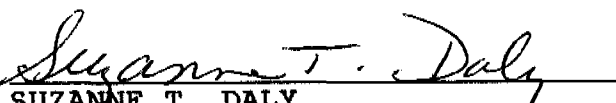
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