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**FILED**

30 J. WHITE

MAR 8 1993

CLERK, SUPREME COURT

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

IN THE SUPREME COURT OF FLORIDA

CASE NO. 80-168

**WILLIE FRANK THOMAS**  
Petitioner

**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

/  
**WILLIE FRANK THOMAS**  
DC# 104325  
Desoto Correctional Insti.  
P.O. Drawer 1072  
Arcadia, Florida 33821

Assisted by Paralegal  
Julian Lawrence Marcus  
Chief - Wash., D.C.

Elizabeth January, Assoc.  
Criminal Law Division  
Ft. Lauderdale, Florida

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DC# 104823

Desoto Correctional Insti.  
P.O. Drawer 1072  
Arcadia, Florida 33821

Assisted by Paralegal  
Julian Lawrence Marcus,  
Chief - Wash., D.C.

Elizabeth January, Assoc.  
Criminal Law Division  
Ft. Lauderdale, Florida

**TABLE OF CONTENTS**

	<b>PAGE(S)</b>
Table of Contents .....	2
Citation of Authorities .....	2
Argument in Response .....	3
<b>Issue:</b>	3
THAT FLORIDA STATUTE SECTION 775.084 (AMENDED 1989) DOES VIOLATE THE SINGLE SUBJECT RULE OF THE FLORIDA CONSTITUTION.....	3
<b>Section A.</b>	4
THE STATUTE IS FACILLY UNCONSTITUTIONAL BECAUSE IT PENALIZES DEFENDANTS FOR THEIR STATUS AS HABITUAL FELONY OFFENDERS.	4
<b>Section B.</b>	4
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.	4
Conclusion .....	5
Certificate of Service .....	5

**CITATION OF AUTHORITIES**

	<b>PAGE(S)</b>
<u>Johnson v. State,</u> So.2d _____ (18 Fla.L.Wkly 555) (Fla. 1993)	3
<u>Thomas v. State,</u> So.2d _____ (Fla. 2nd DCA 1992)	3
<b>OTHER AUTHORITIES</b>	
Article III, s.6., Florida Constitution	3

**ISSUE:**

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

The State of Florida has not denied that the Second District Court's decision in Thomas v. State, \_\_\_ So.2d \_\_\_ (17 FLW ) (Fla. 2nd DCA 1992), clearly and expressly held that s.775.084., Florida Statute, (amended 1989) does not violate the single-subject rule of Article III, Section 6, Florida Constitution.

The question here is whether the decision should be quashed as the court decided in Johnson v. State, \_\_\_ So.2d \_\_\_, (18 Fla. L. Wkly 955) (Fla. 1993). That answer is in the affirmative.

The record in this case does not support the use of the habitual offender act against the petitioner and therefore, ~~it cannot be said, that the court would have sentenced the~~ petitioner to a habitual offender sentence "beyond a reasonable doubt".

The alternative is to order that the defendant be resentenced under the guidelines in light of a lack of record support for the said habitual offender sentence.

The Petitioner relies on the rest of his argument in

his initial brief in support of the decision to quash the district courts decision finding that the habitual offender statute in question here did not violate the single-subject rule of our Florida Constitution.

**Section A.**

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

The petitioner relies on his argument in his initial brief on this claim before the court, the Respondents argument to the contrary notwithstanding.

**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 claim before the court, the Respondents argument to the contrary notwithstanding.

**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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Willie F. Thomas  
P.O. Drawer 1072  
DC# 104325  
P.O. Drawer 1072  
Desoto Correctional Insti.  
Arcadia, Florida 33821

**CERTIFICATE OF SERVICE**

I DO HEREBY CERTIFY that a true and correct copy of the afore has been furnished to Counsel for the Respondent, **MICHELE TAYLOR**, Assistant Attorney General, 2001 North Lois Avenue, Department of Legal Affairs, Tampa, Florida, 33601, this 1 day of March, 1993, by U.S. Mail.

*Willie F. Thomas*  
\_\_\_\_\_  
Willie F. Thomas, Pro Se  
Petitioner