

FILED

SID J. WHITE

AUG 27 1992

CLERK, SUPREME COURT

By [Signature]
Chief Deputy Clerk

IN THE FLORIDA SUPREME COURT

WALTER LEE PEARCE,
Petitioner,

vs.

STATE OF FLORIDA,
Respondent.

Case no.
Lower Case no. 92-07783

80,379

INITIAL BRIEF OF JURISDICTION

Petitioner:

Walter Lee Pearce, pro se
Post Office Box 1100
Avon Park, FL 33825-1100

Respondent:

Attorney General's Office
The Capitol
Tallahassee, FL 32302

JURISDICTION

This Court has jurisdiction pursuant to Art. 3, § 3(b)(3) Fla. Const. (1992) and FLA. R. App. P. Rule 9.030(2)(A)(iv) (1992).

On February 8, 1991, the Petitioner was sentenced as an habitual violent offender. On April 8, 1992, the Petitioner filed a Fla. R. Crim. P. Rule 3.850, Motion for Post-Conviction Relief, attacking the habitual **offender** statute under which he has been sentenced as unconstitutional for violating the "single subject rule."

There is direct conflict between several district courts on the question of whether the amended sections of 775.087 Florida Statutes, is in violation of the single subject rule set out in Article 111, section 6, Florida Constitution. Compare Jamison v. State, 583 So.2d 413 (Fla. 4th DCA 1991); and McCall v. State, 583 So.2d 411 (Fla. 4th DCA 1991) rev. granted 593 So.2d 1052 (Fla. 1992)(Docket no. 92-78536 Feb. 2, 1992); and Beaubaum v. State, 17 F.L.W D680 (Fla. 3d DCA 1992) with Johnson v. State, 589 So.2d 1370 (Fla. 1st DCA 1991). See generally Art. 111, § 6, Fla. Const. (1968); Ch. 89-280, § 12, Laws of Florida; Ch. 91-44, Laws of Fla.

The Second District Court of Appeals affirmed the denial of my Rule 3.850 motion, Pearce v. State, Case no. 92-02783 (Fla. 2d DCA Aug. 7, 1992) citing McCall, supra. McCall was recently granted review by this Court: furthermore, Pearce, McCall and several other cases are in direct conflict with Johnson, supra.

WHEREFORE, Petitioner respectfully requests that this Court grant review in this case.

Respectfully submitted,

Walter L. Pearce

Walter L. Pearce
DC# 755135
Post Office Box 1100 (1798)
Avon Park, FL 33825-1100

Certificate of Service

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished by U.S. Mail on this 25 day of August, 1992, to the offices of: The Attorney General, Tallahassee, Florida 32302.