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CLERK, SUPREME COURT

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IN THE SUPREME COURT OF FLORIDA

LLOYD A. STEELE,
Petitioner,

v.

CASE NO. 81,437

STATE OF FLORIDA,
Respondent

AN APPEAL FROM THE FIFTH DISTRICT COURT OF APPEAL

RESPONDENT'S BRIEF ON JURISDICTION

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TABLE OF CONTENTS

PAGES:

TABLE OF AUTHORITIES.....ii
SUMMARY OF ARGUMENT.....1

ARGUMENT

THE DECISION OF THE DISTRICT COURT
OF APPEAL IS CONSISTENT WITH
DECISIONS OF OTHER DISTRICT COURTS
OF THIS STATE.....2
CONCLUSION.....4
CERTIFICATE OF SERVICE.....4

TABLE OF AUTHORITIES

CASES:

PAGES:

Dept. of Health and Rehab. Services v. National Adoption
Counseling Service, Inc.,
498 So. 2d 888 (Fla. 1986).....3

State v. Johnson,
18 Fla. L. Weekly S55 (Fla. January 14, 1993)2

OTHER AUTHORITIES

§775.084 Fla. Stat. (1989).....2

§775.0842 Fla. Stat. (1989).....2

§775.0843 Fla. Stat. (1989).....2

Art. III, § 6, of the Fla. Const.....2

SUMMARY OF ARGUMENT

This court lacks jurisdiction to hear this action as there exists no conflict between this opinion and those cited by the petitioner.

ARGUMENT

THE DECISION OF THE DISTRICT COURT
OF APPEAL IS CONSISTENT WITH
DECISIONS OF OTHER DISTRICT COURTS
OF THIS STATE.

The Petitioner claims that the decision of the district court below conflicts with this Court's recent finding in State v. Johnson, 18 Fla. L. Weekly S55 (Fla. January 14, 1993). This assertion, however, is in error.

Johnson was convicted as a violent felony offender pursuant to amendments to §§775.084, 775.0842 and 775.0843 Fla. Stat. (1989) contained in Chapter 89-280. This court determined that the chapter law violated the single subject law. However, "Once reenacted as a portion of the Florida Statutes, a chapter law is no longer subject to challenge on the grounds that it violates the single subject requirement of article III, section 6, of the Florida Constitution." Johnson, 18 Fla. L. Weekly S55, S56. Johnson had been convicted prior to the effective date of the statute, May 2, 1991. As a result, he had to be resentenced.

The instant cause differs from Johnson in that the petitioner pled guilty and was sentenced subsequent to May 2, 1992, and therefore his sentence was made in accordance with statute. While the date of sentencing is not attached as part of the defendant's appendix, his presentencing investigation report is. According to the letter attached to the front of the report, the PSI was sent to the court on July 24, 1991, almost three months after the statute was reenacted. As this Court noted in Johnson, the window period extended from October 1, 1989, to May

*

2, 1991. Id. at S56. Since the instant defendant's sentencing was outside the window period, no conflict exists between the decision below and this Court's prior decision.

Because there is no express and direct conflict between the district court opinion sub judice and those of other districts or this court, the instant petition for jurisdiction must fail. Dept. of Health and Rehab. Services v. National Adoption Counseling Service, Inc., 498 So. 2d 888 (Fla. 1986).

CONCLUSION

Based on the aforestated points and legal authorities, the respondent, THE STATE OF FLORIDA, respectfully requests this court to deny jurisdiction in this cause.

Respectfully submitted,

ROBERT A. BUTTERWORTH
ATTORNEY GENERAL

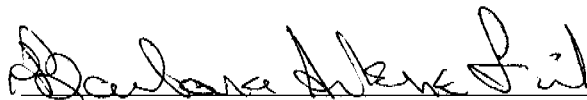


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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the above and foregoing answer brief has been furnished by U.S. Mail to LLOYD A. Steele, Hamilton Work Camp, P. O. Box 1088, Jasper, Fl. 32052, on this 1ST day of April, 1993.



BARBARA ARLENE FINK
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