

087

IN THE SUPREME COURT OF FLORIDA

FILED

SID J. WHITE

AUG 24 1995

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

ANN BRANCH,)
)
 Petitioner,)
)
 vs.)
)
 STATE OF FLORIDA,)
)
 Respondent.)
 _____)

CASE NO. 81,536

PETITIONER'S REPLY BRIEF ON THE MERITS

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PRELIMINARY STATEMENT

Petitioner was the defendant in the Criminal Division of the Circuit Court of the Seventeenth Judicial Circuit, In and For Broward County, Florida, and the appellee in the Fourth District Court of Appeal, Fourth District. Respondent was the prosecution and appellant below.

In the brief, the parties will be referred to as they appear before this Honorable Court.

The following symbol will be used:

AB = State of Florida Answer Brief

STATEMENT OF THE CASE AND FACTS

Appellant relies on her Statement of The Case and Facts as stated in her Brief on the Merits.

POINT I

THE TRIAL COURT DID NOT ERR IN DEPARTING
DOWNWARD FROM THE THREE YEAR MANDATORY MINIMUM
SENTENCE OR IN SENTENCING PETITIONER PURSUANT
TO SECTION 397.12, Fla. Stat. (1989).

Appellant relies on Point I as stated in her Brief on the
Mertis

POINT II

PETITIONER'S RIGHT TO DUE PROCESS OF LAW WAS VIOLATED BY THE BROWARD COUNTY SHERIFF'S OFFICE USE OF CRACK COCAINE ROCKS WHICH IT HAD ILLEGALLY MANUFACTURED AND THEN DISTRIBUTED

Contrary to the State's suggestion that dismissal of this case should be without prejudice in order to allow them to refile the Information charging Petitioner with solicitation (AB5), "the only appropriate remedy to deter this outrageous law enforcement conduct is to bar the defendant's prosecution." State v. Williams, 18 Fla. L. Weekly S371, 373 (Fla. July 1, 1993).

CONCLUSION

Based on the foregoing Arguments and the authorities cited therein, Petitioner respectfully requests this Honorable Court to quash the opinion of the Fourth District Court of Appeal and reverse this cause.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a copy hereof has been furnished to Georgina Jimenez-Orosa, Assistant Attorney General, 1655 Palm Beach Lakes Blvd, Third Floor, West Palm Beach, Florida 33401 by courier this 23rd day of AUGUST, 1993.



Attorney for Ann Branch