

IN THE SUPREME COURT OF FLORIDA

STATE OF FLORIDA, :  
 :  
 Petitioner, :  
 :  
 vs. :  
 :  
 JAMES HILL, :  
 :  
 Respondent. :  
 \_\_\_\_\_ :

Case No. 82,557

**FILED**

SID J. WHITE

JAN 24 1994

CLERK, SUPREME COURT

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

DISCRETIONARY REVIEW OF DECISION OF THE  
DISTRICT COURT OF APPEAL OF FLORIDA  
SECOND DISTRICT

ANSWER BRIEF OF RESPONDENT ON THE MERITS

JAMES MARION MOORMAN  
PUBLIC DEFENDER  
TENTH JUDICIAL CIRCUIT

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STATEMENT OF THE CASE AND FACTS

Appellee accepts the statement of case and facts as filed by Appellant.

SUMMARY OF THE ARGUMENT

Because this court has determined the phrase, "public housing facility" to be unconstitutionally vague, Appellant's issue is moot and the decision of the Second District in the present case must be upheld.

ARGUMENT

ISSUE

THE STATUTE IS UNCONSTITUTIONALLY VAGUE BECAUSE IT FAILS TO PROVIDE ADEQUATE NOTICE OF WHAT IT FORBIDS AND ALLOWS FOR DISCRIMINATORY ENFORCEMENT.

Because this court in Brown, et al. v. State, 19 Fla. L. Weekly S22 (January 6, 1994), concluded that the term, "public housing facility," as argued in Respondent's brief below, is unconstitutionally vague and fails to adequately provide notice of prohibited conduct, Petitioner's argument must fail. Consequently, the Second District's decision must be affirmed.

CONCLUSION

Based on the above and foregoing reasons, argument and authority, the decision of the district court below must be upheld.

CERTIFICATE OF SERVICE

I certify that a copy has been mailed to Michele Taylor, Suite 700, 2002 N. Lois Ave., Tampa, FL 33607, (813) 873-4730, on this 20<sup>th</sup> day of January, 1994.

Respectfully submitted,



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TRV/dt