

**SUPREME COURT OF FLORIDA**

**J.Y., a child, Petitioner, v. STATE OF FLORIDA, Respondent.**

**No. 82,633**

**January 19, 1995, Decided**

PER CURIAM.

We originally accepted for review *J.Y. v. State*, 635 So. 2d 34 (Fla. 5th DCA 1993), which cited a case pending review in this Court. *B.H. v. State*, 622 So. 2d 615 (Fla. 5th DCA 1993), approved in part, 645 So. 2d 987, 19 Fla. L. Weekly S 610 (Fla. 1994). On further examination, we find that jurisdiction was improvidently granted and accordingly dismiss the petition.

It is so ordered.

GRIMES, C.J., OVERTON and SHAW, JJ., and McDONALD, Senior Justice, concur.

HARDING, J., concurs in part and dissents in part with an opinion.

KOGAN, J., dissents with an opinion.

NO MOTION FOR REHEARING WILL BE ALLOWED.

**CONCURBY:** HARDING (In Part)

**DISSENTBY:** HARDING (In Part); KOGAN

**DISSENT:** HARDING, J., concurring in part and dissenting in part.

I concur in part and dissent in part for the reasons stated in my separate opinion to *B.H. v. State*, 645 So. 2d 987, 19 Fla. L. Weekly S 610 (Fla. Nov. 23, 1994) (Harding, J., concurring in part, dissenting in part).

KOGAN, J., dissenting.

I dissent for the reasons stated in my partial dissent to *B.H.*, and I further dissent from the dismissal of this petition. It perhaps deserves emphasis that the majority's denial of review here hinges solely on the holding of *B.H.* Assuming *B.H.* espouses sound legal doctrine, then it is true that *J.Y.* will suffer no deprivation of justice if review is denied. However, the United States Supreme Court still possesses the authority to review the Fourteenth Amendment due process issues apparent in these cases, which I have outlined in my separate opinion in *B.H.* Should that Court issue certiorari and reverse the

majority's decision in B.H., I believe this Court then would have jurisdiction to review J.Y.'s case afresh by way of the all writs authority, art. V, § 3(b)(7), Fla. Const.; State ex rel. Chiles v. Public Employees Relations Comm'n, 630 So. 2d 1093 (Fla. 1994), among other possible bases.

**JUDGES:** GRIMES, C.J., OVERTON and SHAW, JJ., and McDONALD, Senior Justice, concur. HARDING, J., concurs in part and dissents in part with an opinion. KOGAN, J., dissents with an opinion.

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