

Supreme Court of Florida

ORIGINAL

No. 83,627

JOAQUIN CASADO,

Petitioner,

vs.

STATE OF FLORIDA,

Respondent.

[January 12, 1995]

WELLS, J.

We have for review a district court decision presenting the following question certified to be of great public importance:

WHETHER THE CONSTITUTIONAL RIGHT TO PRIVACY RENDERS UNCONSTITUTIONAL THOSE PORTIONS OF SECTIONS 800.04 AND 794.041 PROVIDING THAT CONSENT IS NOT A DEFENSE TO A PROSECUTION FOR SEXUAL ACTIVITY WITH A MINOR UNDER THE AGE OF 16.

Casado v. State, 634 So. 2d 830 (Fla. 5th DCA 1994). We have jurisdiction. Art. V, § 3(b)(4), Fla. Const.

In accordance with our decision in Jones v. State, 640 So. 2d 1084 (Fla. 1994), we answer the certified question in the negative and approve the district court's decision upholding the constitutionality of sections 794.041(2)(b)¹ and 800.04, Florida Statutes (1991). We note that the reasoning in Jones, in which we specifically upheld the constitutionality of section 800.04, applies equally to section 794.041.

GRIMES, C.J., OVERTON, SHAW, KOGAN, HARDING and ANSTEAD, JJ., concur.

NOT FINAL UNTIL TIME EXPIRES TO FILE REHEARING MOTION AND, IF FILED, DETERMINED.

¹ Section 794.041 was repealed by chapter 93-156, section 4, at 911, Laws of Florida.

Application for Review of the Decision of the District Court of
Appeal - Certified Great Public Importance
Fifth District - Case No. 93-937

(Orange County)

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